

The GREAT CONSPIRACY:
OF THE
Famous Tally Sheet Cases

By Simeon Cox

Webster Memorial Library
Decatur, Michigan

R. O.

50



Sinner's Boy

THE
GREAT CONSPIRACY

A COMPLETE HISTORY

OF THE

FAMOUS TALLY-SHEET CASES.

By

SIMEON COY.

ALSO,

INCIDENTS OF PRISON LIFE, NOTORIOUS CRIMINALS AND
THEIR CRIMES; REFLECTIONS UPON PRISON REFORM,
ETC.; TOGETHER WITH A BRIEF RECITAL OF
THE PERSONAL AND POLITICAL LIFE
OF THE AUTHOR.

INDIANAPOLIS:

1889.

364
C
C1

Entered according to Act of Congress, in the year 1889,
By SIMEON COY,
In the office of the Librarian of Congress at Washington.

CONTENTS.

CHAPTER I.—Birthplace and early education of the author—Learns a trade—Entering upon his business career—His first entry into politics—Elected to the council of the city of Indianapolis—Incidents of Marion county jail and Indianapolis police station-house—A pen picture of a professional juryman—History of official corruption in Marion county—Incidents of ballot-box stuffing.

CHAPTER II.—Containing a full account of the Tally-sheet cases as presented to the various grand juries, both State and Federal—The agreement between Samuel E. Perkins, the prosecuting witness, and the State Government by which he was to receive immunity from prosecution—History of the final indictment in the Federal Court—The beginning of the famous trial.

CHAPTER III.—Jury empanelled—United States District Judge Woods' charge to the jury before entering upon the trial—Opening for the prosecution and the defense—Introduction of evidence for the prosecution, including the evidence of Samuel E. Perkins.

CHAPTER IV.—Continuation of the evidence of the prosecution.

CHAPTER V.—Introduction and conclusion of the evidence for the defense—Character witnesses to the standing of the author—Verdict in first trial.

CHAPTER VI.—Speeches of the counsel for the defense, in full—Henry N. Spaan's argument in his own behalf.

CHAPTER VII.—Beginning of the second trial—Selecting of the jury—Verdict of guilty found—Scathing review of the jurors who composed the jury—Letter of Jurymen Peters to Judge Woods—Confession of a Republican jurymen fixer—Charges preferred for the expulsion of the author from the council but not sustained—The Republicans failing by not having the necessary two-third majority.

CHAPTER VIII.—Commencement of the third trial in the Tally-sheet cases, in which John L. Reardon, John H. Counselman and Dr. C. N. Metcalf were acquitted, the jury disagreeing as to John E. Sullivan and George W. Budd—The stay in Marion county jail after sentence—Departure for Michigan City and first night in prison.

- CHAPTER IX.—First instruction in prison life—Assigned to duty in the hospital department—Interviewing and studying the character of the inmates of the institution—Personal remarks about a few of the most noted life prisoners.
- CHAPTER X.—Description of tramps, bums and hobos—Professional criminals who are now or were at one time inmates there—A description of some of the desperate attempts to escape made at various times.
- CHAPTER XI.—Incidents in the life of "Blinky" Morgan—His killing of "Nailer," a companion, in a mob of "peter" men, and his burial on the banks of a lonely river—The true relations existing between Morgan and Nell Lowry.
- CHAPTER XII.—Meeting of the "Actor" and "Cool Jim" in the prison hospital, with a description of "Cool Jim's" daring burglaries under the disguise of a theatrical manager—Another incident in the life of a successful burglar's unsuccessful meeting with a prize fighter.
- CHAPTER XIII.—Experiences of "gopher" men and incidents connected with them—The history of an old safe which proved to be burglar-proof.
- CHAPTER XIV.—Superstitious notions held by thieves and an episode occurring between a "peter mob" and cats—Incidents in the lives of "swell mobs" that have done work in various parts of the country but who are now doing time in the prisons in this and the old country.
- CHAPTER XV.—Conversations with a well-known counterfeiter who had handled the queer for thirty years—An interesting account of the Johnson family and Pete McCartney, the most noted "cooney" men that this country ever produced—The authentic history of the first greenback that was counterfeited in the United States—The bill was engraved and printed in Marion county, Indiana.
- CHAPTER XVI.—An interview with A. M. Alexander, better known as "Doc," who was convicted in Marion county of forgery and sent for two years to the Northern Prison.
- CHAPTER XVII.—A description of Michigan City Prison and the officials connected with its management.
- CHAPTER XVIII.—Suggestions for prison reform and how it could be brought about.
- CHAPTER XIX.—Prison regulations—The contract system—Legislation required for insane prisoners—Suggestions for the appointment of a State Prison Agent.
- CHAPTER XX.—Conclusion.

PREFACE.

THE saying, "We are making history," is heard every day in circles where men meet to discuss politics, religion, law, medicine, morals and other matter, which from time to time engage the attention of statesmen, politicians, philanthropists and cranks. The saying is true. Nearly every one seems ambitious to contribute his or her share of raw material, to be worked up into history. Without any ambition in that direction, I have been forced into notoriety, which, if at any time agreeable, did not, in the end, pan out pleasantly, and it is because of this unwelcome termination of an ordeal through which I was called to pass, that I offer to the public this book. I need not be told that it is one thing to make history, and quite another thing to write it up for the public eye and ear. How well I performed the first part has been told by the press of the State and country. How well I shall succeed in the second part of the program remains to be seen. Fair play is a jewel. The world likes fair play. In entering upon the task of writing this book, I have determined to write no word in malice. I propose square work. Those who look for "offensive partisanship" will be disappointed. I intend to be frank. I have marked out certain lines, and I am going to hew to them. I am going to write history as it ought to be written, and I am going to take all the responsibility of the job. I am going to write my experience—what I have seen and felt. Much has been written in a spirit of vindictiveness, much that was generous and kindly,

but, as I have been made the victim of adverse circumstances, cruel and relentless, I think I can tell the story better than any other person.

I do not take any stock in the idea that my life is wrecked, or that I must abandon any honorable aspiration. Not a bit of it. If there are those who think I will go the remainder of my life, be it long or short, with a bowed head, making apologies for living, they may as well abandon the thought. I am not built that way. There is an old proverb which says, "Conscience is the chamber of justice." It does not matter what was done in some other "chamber of justice," there never was a verdict rendered against me in the chamber of justice where conscience presided, and this fact has, as I shall hope to show, kept me, while submitting to the mandate of the law, from nursing enmities towards those who in the heat of partisan passion sought my ruin.

I say this, because the humiliations to which I have been subjected, have neither warped my judgment nor been productive of such exasperations as to disqualify me from making honest estimates of men, some of whom, though big as Goliath of Gath, have my pity, if not my contempt. It is not my nature to be revengeful. I do not nurse hates that I may get even with men who have pursued me to gratify their own implacable natures or for the gratification of the mob. Those who shouted "Convict him," have had their day.

TO THE READER.

I am told that book writers sometimes submit their manuscript to some friend for the purpose of having an introduction written, to prepare the mind of the reader for a favorable verdict when the book is read. As I know what I am going to write about, I propose to introduce myself to the reader, and, if possible, take him into my confidence for the purpose of interesting him in the history of myself, as I shall write it. As I am going to write my own history, I shall, as you observe, be required to use the personal pronoun frequently. I beg that the reader will not, therefore, call me an egotist nor think that I am full of self-conceit and self-importance. Nothing is further from the truth and the impression would do me injustice. But while I am not vain, I make no pretensions to meekness. If I accept what I can't help with becoming acquiescence, if I don't "kick against the pricks" like a man bereft of reason, it is because such a course would be of no benefit to me, while it would be greatly gratifying to my enemies. Selected for sacrifice by those who extolled my influence that they might the more certainly slaughter me, they expected that I would take my medicine in a way that would make me contemptible in the eyes of my friends and add to the severity of a verdict which made honest men cry "shame!" I am made of different stuff. I did not squeal, I did not wilt, I did not crawl. I went to prison as a man, I deported myself like a man, and I came forth a man. I had committed no crime, and those who sought my ruin,

who stabbed my good name, who intended to make my young manhood odious in the eyes of the public and all my future days a burden, have missed their aim. If that is boasting let the most be made of it. I want the reader to catch on early and stay with me to the end of the last chapter. I know something about parliamentary give and take. I am going to be parliamentary. I am going to give the reader a brief history of my life from childhood to manhood, something about my education, my habits of life, my trade, my business, my connection with politics, my triumphs at the polls and my work as a city legislator. This done, it will be seen why I was selected to appease the vengeance of men who daily stand in need of the prayers of the righteous to rescue them from conditions far more disagreeable than imprisonment in the Northern penitentiary of Indiana. I am going to tell the reader all about my indictment and trial. I will introduce court scenes, not as Dickens could do it, but judge and jury and witnesses will be made to pass in review. Some of them are distinguished men, by which I mean they have gained a notoriety which incarceration in prison would embellish—men who are doomed to wear stripes as fadeless as the stripes of a zebra, who are convicts by nature and for life, and who, when they pass in their checks, will be credited with no good time marks. I am going to tell, for the benefit of the reader, what I know about prison life and the life of prisoners. The half has not been told; much never will be told. There are multiplied incidents that never find their way to the public eye, incidents which, told without exaggeration, would read like fiction. Some of these the reader will find in my book, as also my reflections upon subjects calculated to bring about reforms in the life of convicts which, under present arrangements, are not secured.

With these preliminary remarks to the reader, I enter upon my task.

THE GREAT CONSPIRACY.

CHAPTER I.

AUTOBIOGRAPHICAL.

I WAS born in the town of Greensburg, Decatur county, Indiana, October 13, 1851, and came to the city of Indianapolis to reside permanently, in the year 1863, when I was twelve years of age. Such schooling as I can boast of was received in the district schools of Decatur county and in the ward schools of Indianapolis. My school days ended in 1866, when I was fifteen years old, and at that early age I entered the Shaw Carriage Works, as an apprentice to the painting trade. I continued to work for that company until 1875—nine years—at which time, in connection with T. C. Redding, Superintendent of the Shaw Carriage Works, I went into the liquor business and have continued in it to the present.

I suppose a great many people would like to know my opinion of the liquor business. The fact that I have been in it for fourteen years, and am still in it, ought to be accepted as my opinion that it is a reputable business, and that honorable men are engaged in it. A man ought always to be ready to give a reason for his choice of callings. Some say selling liquor is disreputable; if that is true, the laws of Indiana are disreputable, and conse-

quently, the men who made the laws are disreputable. If the man who sells liquor is disreputable, the man who makes liquor must also be dishonorable, and the man who drinks liquor belongs to the same class. There is no way that I know of for the people of the State, their representatives, the law-makers, the men who distill and brew, make wine and cider, those who sell, wholesale and retail, and the men who drink, to escape the same verdict, unless the court that tries the case is so warped and prejudiced, so mean and contemptible, as to punish a foe and let a friend escape.

At an early age I began taking great interest in local politics and identified myself with the Democratic party. This I have never regretted. I am not going to make a stump speech, but will just say, the Democratic party, like wine and whisky, grows better as it grows older, and don't evaporate. In 1872 I cast my first vote for Horace Greeley and during that year was elected a member of the Democratic county committee, and since that date I have continually been connected with both the county and city Democratic committees and have taken an active part in every national, State, county and municipal campaign.

In 1878 I became a resident of the Eighteenth ward, which was, at that time, a reliable Republican ward, giving a Republican majority in the spring of 1881 of 225 votes. At that time councilmen were elected to serve one year, but the Legislature of 1881 passed a special act for the city creating a board of aldermen, fixing the term of aldermen and councilmen at two years and designating October as the month for holding the city election. The Democrats of the Eighteenth ward, in response to a call made by the Democratic central committee, met in convention at Mozart Hall to nominate a candidate for council. The ward was known to be strongly Republican, and aspirants for the nomination were neither numerous nor noisy. There was a

dearth of candidates, and it was finally determined that I should lead the forlorn hope. I thanked the convention for the compliment and for the confidence my neighbors and friends reposed in me. I made a short speech. It was my maiden effort. I told them I did not intend to be defeated by any opposing candidate; that I intended to redeem the ward from Republican rule, and that if each and every Democrat in the ward would give me their hearty support and carry out the directions that I intended to give to the committee on organization, and would be at the polls on the morning of the election and remain there till the polls closed, and do their duty to their candidate and to the Democratic party, they would find, after the ballots were counted, that the Eighteenth ward would be represented in the council by Simeon Coy.

It is needless to say that the campaign was vigorous. The Republicans exhausted every resource. The contest was warm, and when the ballot had been counted my prediction was verified; the Republican majority had been overcome and I was elected by 76 majority, while the remainder of the ticket was defeated, and Republicans were elected by a majority of 125 votes.

This is biographical history—history that I had a hand in making myself. It is agreeable to me. I recall it and write it with great satisfaction, all the more agreeable because the confidence then reposed in me by my constituents in the Eighteenth ward has never been withdrawn; it has never been shaken. Falsehood, slander, persecution, indictment, trial and conviction all combined, have not been able to make my friends and neighbors of the old Eighteenth ward desert me. They knew me through and through, as citizen, neighbor, and as councilman, and they have stood by me, and in exile from my home and fireside, from wife and child, the victim of an unrighteous verdict, their friendship and confidence has afforded me untold

comfort and consolation, which the shafts of malice could not destroy. Why this loyalty to Sim Coy? I will give the reason.

After taking my seat as a member of the council, I commenced looking after the interests of my constituents. I looked after street improvements, the improvement of alleys and sidewalks, and by hard work I was successful in securing the required legislation. The citizens and taxpayers were thoroughly satisfied with my course as their representative, and as a consequence I was again nominated by acclamation to be my own successor in the council. The second race was as exciting and as lively as the first, and resulted in my election by 116 votes, an increased majority of 41 votes. This complimentary majority demonstrated that the people had confidence in me and appreciated my work as their representative. My motto was to serve the people of my ward regardless of parties, and my party again honored me with the nomination for councilman by acclamation. At this time the Republican machine was put in order for crushing work, and manned by experts. The determination was to beat me at all hazards. The entire press of the city, except the *Sentinel* and the *People*, turned its batteries on me and the bombardment was ceaseless. The Republicans selected their best man, a physician well known and popular. The campaign was hot on the part of the Republican press; it was venomous; but when the votes were counted I was again victorious by a majority of 96.

I am just a little particular in making statements regarding my political history, because the facts will come into bolder prominence further along.

In the Presidential campaign of 1884 I was brought forward by my friends for the position of chairman of the Marion county Democratic central committee, the Republicans having had absolute control of the county for years. It was claimed by my party that I was the man to bring

about a more perfect and compact organization, which, it was believed, would secure a Democratic victory and take Marion county out of the grasp of the Republican party. The result of that election is well known to every citizen. The organization was perfected, the Democratic party was victorious, and the entire Democratic ticket was elected by a handsome majority.

In 1886 I was again elected chairman of the Democratic central committee of Marion county. I thereupon proceeded with the organization I had perfected in 1884, seeking constantly to improve it as exigencies required. A closer organization was brought about by having each committeeman in the city to organize his precinct by blocks, and the country committeemen by school and road districts. Every dissatisfaction in the Democratic or Republican party was to be reported to me day by day. If a committeeman or a person interested in the organization of a precinct failed to report, a trusted messenger was immediately dispatched to learn the cause. All candidates on the county ticket were requested to make a report each night relating to the progress of the campaign during the day. By this means I was kept informed and was prepared to give needed instructions, and any committeeman, or any citizen, regardless of his position or walk in life, received uniformly courteous treatment, and went away feeling that he had my sympathy and confidence. If I made an engagement with any one I kept it, and was always on hand at the appointed time. I have always acted upon this rule whether the business in hand was of small or great importance. If any person wanted my influence to secure work and my recommendation could be of service to him, he got it; or if it was necessary for me to go in person to confer with parties in his interest, my services were at his command. When persons were unfortunate and in trouble, and I could be of any assistance, I have never shrunk from the task of lending a helping hand, as many hundreds of mechanics and laboring

men can bear testimony. During the entire period of my connection with the council hardly a day passed that I was not called upon to look after some worthy object of charity, and in numerous instances I have had unfortunate men and women admitted to the hospital, where they could be properly treated and cared for. Often, at night, I have called at the station-house, and many times I have found persons applying for shelter and lodging, many of whom were people who had seen better days. Some were mechanics and laboring men who had lost their jobs and were seeking employment, but without money or friends, their misfortunes drove them to apply at a prison for relief, accept a scanty meal of prison fare, and worn and weary, be content with an iron bed and with little covering to keep them warm, lay themselves down in contact with vermin, always to be found in jails and station-houses. Many such people whom I have found applying at the station-house for food and shelter, if I thought them worthy, I have taken to some lodging house and paid for their bed and for their breakfast. Some I have taken and supported until I could find them a job.

One case I recall in particular, because it served to impress upon my mind the fact that when charity is mixed up with red tape and circumlocution, it is in the nature of "sounding brass." It don't pan out worth a cent. The case I refer to was that of a poor woman and three children, who, almost destitute of clothing, were found by Superintendent Lang near the Morris street bridge, and sent to the station-house in the patrol wagon. The children were without shoes or stockings, and the snow was six inches deep. The sympathizing turnkey, Timothy Clark, turned to me and said, "I have no place fit for these people and nothing for them to eat." The children were crying with hunger and shivering with cold. Clark immediately sent these unfortunate human beings to the Friendly Inn, a

charitable institution kept up by the good people of Indianapolis, and which is under the management of a board of charities, presided over by the Rev. O. C. McCullough, a gentleman who has done much towards organizing charitable societies, and who has done much towards assisting the poor of Indianapolis. But I think the Rev. Mr. McCullough has been grossly imposed upon by the subordinates placed in charge of the Friendly Inn. It has a pretty name. "Friendly Inn" sounds well and it looks well in print, but when the patrol wagon arrived at the Friendly Inn with its load of human misery, the driver, Charles Travis, made known his mission. A window was immediately thrown up, some one thrust out his head, surveyed the hungry and cold unfortunates, and then said, "we have no room." This done, the head disappeared and the load of wretched humanity was carted back to the station-house. I remained until the wagon returned, and requested Clark to put the unfortunates up-stairs and make them as comfortable as possible, while I went to a restaurant and procured them food—hot coffee and rolls. I also left sufficient money with Clark to buy the children shoes and stockings. What became of these wretched people I know not, but I was satisfied I had done my duty. This is one case out of many similar ones that have come under my notice during the past few years.

The public should understand that in referring to the Friendly Inn I am not prompted by any unkind feeling towards charitable institutions when properly managed, but the incident I have related, coming under my own observation, is referred to that those directly interested in the management of the Friendly Inn may be able to correct such abuses as I have pointed out and make the institution in fact, as well as in name, a friendly inn.

I do not doubt that the benevolently disposed people of Indianapolis are as ready to lend a helping hand to the poor and needy as are the people of any other city in the coun-

try, but it must be admitted that they are greatly imposed upon by worthless characters. I know what it is myself, but I would rather be imposed upon by a dozen worthless characters than be guilty of turning one away who was deserving of assistance.

Indianapolis is far behind other cities of equal population in station-house accommodations. The station-house prison, for such it is, was built when the city had less than half of its present population. Its arrangements for taking care of prisoners are exceedingly defective. Men and boys arrested for petty offenses are thrown into the same cells with hardened criminals. The women's department is equally bad. There are numerous instances where women arrested for light offenses are placed in cells with women of abandoned character because they can not give bail or have no opportunity to send for friends. I write of this because my position as councilman has enabled me to witness many painful exhibitions of injustice, unavoidable while the station-house accommodations remain as they are. Such things are discreditable to civilization, and show that our charitable people and our churches exert but little influence where opportunities offer for doing good.

The Marion county jail is in a condition similar to that of the station-house. A great many persons wonder at the increase of crime, and the large number of confirmed criminals is a matter of constant comment. If people who take an interest in such matters would only examine the Marion county bastille, they would find, as a general thing, about one hundred men and boys; they would find that for this number of inmates only sixteen cells are provided. These people mingle together in one common family, and the work of demoralization goes forward without intermission. Among the inmates of the jail will be found many men and boys arrested and in jail to await grand jury action. It is their first arrest, but they are compelled to associate with hardened criminals for about thirty days

before the grand jury considers their cases, and even if they are not indicted they become contaminated by contact with men who are known to be beyond redemption. If indicted, and are not bailed out, they will wait, in most cases, fully thirty days longer in jail before they are tried, and in some cases six months; and if not criminals when arrested, they are likely to become such while in jail because of the character of their associations. The influences of jail life in the Marion county prison is demoralizing to the last degree, and though the person arrested may not be found guilty, in the great majority of cases his confinement results disastrously. Policemen and detectives "spot" him as one who has been in jail charged with crime, and when, subsequently, a crime is committed, and he is known to be in the neighborhood, he is suspected and often arrested for the offense. In this way the jail becomes a school for the education of criminals, and the work goes bravely on in all jails where men and boys, young in crime, are placed in contact with professional villains.

Take a professional criminal who is, for instance, a safe-blower, a burglar or a foot pad. He will put up at a first-class hotel. He dresses in the latest style, wears a silk hat and during the day passes himself off as a drummer, or a business man in some other reputable calling. Quite likely during the day he will treat the officer on his square to a drink or to a cigar at the hotel bar, the innocent policeman not dreaming that the gentleman who is treating him is a professional criminal. But when night comes on the professional sallies forth in his disguise, does his work, and the next morning is at breakfast at the hotel as usual. These professional criminals are seldom caught, while the poor devil who steals a ham or a loaf of bread is railroaded to prison for two or six years, and the policeman informs the newspaper man that "the fellow just sent over the road is a notorious burglar and safe blower," and expresses the

conviction that "the gang who have been doing all the slick work in the city is broken up," when in fact, the real culprit is many miles away, arranging for other work and playing the same game with policemen of other cities.

Policemen, such as I have described, may be like others of their calling, the world over—men who walk their lonely beats during all the long and weary hours of the night, indulging in hallucinations, and imagining themselves the central figures of valorous men, charged with the responsible duties of unravelling deep-laid plots and of catching professional criminals and notorious desperadoes. Under the influences of such dreams the heroic policeman may give the reporters glowing descriptions of their vigilance and cunning, with flaming head-lines, well calculated to make the people stare, and wonder how it happens, with such great battles, and splendid victories, that safe-blowers, burglars and foot-pads are so numerous and so generally successful in securing swag and getting away with it. This brings to my mind one case in particular, which occurred on Malott avenue in the city of Indianapolis, a couple of years ago. I refer to the case of a poor, unfortunate colored man by the name of Gus Williams, who was left in charge of a saloon where hoodlums and notorious characters were in the habit of congregating. The white man who was the proprietor of the saloon left it temporarily in charge of this weak-minded colored man, who at one time had been an inmate of the Insane Asylum. The crowd that had congregated at the saloon immediately commenced a disturbance, by demanding free drinks. These being refused, abusive language was in order, which was hurled at the innocent and unoffending colored man. Maddened by the stinging abuse heaped upon him, Williams seized a double-barrelled shot-gun and discharged its deadly contents into the head of the ring-leader of the mob, who was instantly killed. After the deed was committed the officers, as usual, were promptly on hand, but the murderer had fled. The

policemen immediately proceeded to the home of his mother—the house was surrounded by them. A person was heard going down cellar, as if trying to get out of the house, and one of the officers thereupon fired his gun into the cellar and killed the brother of the murderer, an innocent and inoffensive man, while the real murderer was several miles away in the country. During the remainder of the night and all of the next day, the officers were scouring the country with double-barrelled shot-guns, looking for the murderer and desperado, warning each other to be very careful, as their lives were in great danger if they should accidentally come in contact with the murderer, for he had been represented to them as a dangerous man, who would kill his man on sight. How different was the real situation! The unfortunate imbecile had been all the time wandering through woods and cornfields, broken in body and mind, without food, until finally compelled by hunger he wandered back to the city, and, falling into the hands of his friends, he was advised to surrender to the officers of the law, which he did. He was indicted for murder in the first degree, and sentenced to the penitentiary for life by a jury of good, competent and honorable men. He had no means with which to procure counsel, but a gentleman who knew him kindly consented to appear for him. The records of the Insane Asylum were introduced in evidence, and it was shown that he was at one time an inmate of that institution, and instead of being sent to prison for life, he should have been sent back to the Asylum, where he could have been properly treated.

While in the Northern Prison I had an opportunity of seeing Williams every day, for the reason that he could not be worked on contracts, on account of his deranged mental condition, at times falling down in fits. The officers of the prison were afraid that in his helpless condition he might come in contact with the machinery and be maimed or killed. The prison physician, Dr. Calvert,

ordered him to be sent to the hospital for treatment, where he could be better taken care of. The hospital department was in my charge. The prison physician gave me instructions to give Williams strengthening tonics and other drugs to relieve his nervousness and to see that he had kind treatment, and that no one spoke harsh or unkind words to him. By this kind treatment Williams soon became docile as a lamb, and would play around the hospital like a little boy of five years of age, tossing up paper balls and chasing birds that chanced to fly into the hospital window. Charles Carlton, the hospital cook, is a splendid musician, of whose history I will write further on. Carlton took Williams into the kitchen under his care, and began teaching him to pick the banjo. The physician, discovering that Williams was passionately fond of music, bought him a French harp, which in a few months he had completely worn out, and I sent down to this city and procured him another one. I mention the case of Williams only to show that the public, through the press, and the officers of the law, were misinformed in regard to his true condition, and this is only one of many similar cases with which I became familiar.

Newspaper men, in their zeal for news and sensational items, will listen to the statements of irresponsible parties, and will write articles which mislead and prejudice the public, and by the time the case is set for trial, provided the sensational statements relate to a case in court, public opinion has often tried and convicted the accused, and for that reason it is almost impossible for a person accused to obtain a fair and impartial trial.

The jury system has been handed down from generation to generation, covering a period of over a thousand years. It has been improved upon in a great many ways, but there are numerous defects in it yet, which, perhaps, in time will be remedied. In this age, with all the modern appliances for transmitting the news of the day by telegraph to all

parts of the country, including the smallest village, and with railroad lines extending through every section of the country, as soon as the newspapers come from the press they are carried with swift speed to every part of the country, and no crime, great or small, escapes being heralded to the remotest points, and is known in every house soon after it occurs, and the great majority of the people are eagerly discussing it and forming their opinions upon the subject, but, when the day set for trial comes, it is surprising to note the number of supposed intelligent men who had never heard of the case, and who had never read about it in the newspapers, and who had never formed nor expressed an opinion as to the guilt or innocence of the accused. These are some of the important questions, a person is required to answer, to show whether or not he is competent to serve as a juror. If he exhibits entire ignorance by his answers to the questions, he is immediately accepted as a competent juror. Then, the life, the liberty, or the property of the defendant is placed in the hands of men whose supposed ignorance is their passport to the jury-box.

If the reader has a few hours to spare and will visit the court rooms of Marion county, and note the familiar faces of men sitting on juries, or waiting in the lobby to be called, or who are standing on some convenient street corner near the court house, anxiously waiting for some friendly bailiff to pass that way in search of a qualified citizen to serve as a juror, he will doubtless conclude that ignorance is at a premium and intelligence at a discount. After the reader has familiarized himself with the faces of these competent jurors, I would like to have him spend a few more hours each day, beginning about 6 until 9 o'clock A. M., around the various saloons, restaurants and hotels, where the newspapers are generally kept and lunch is served, he will find those familiar faces that he saw in the court-house, eagerly scanning the newspapers for any

item, but more especially for crimes that may have been committed during the night. Having devoured the news, they expound the law to each other over their bowl of soup; then, proceeding to the bar and consuming some more lunch, they hurriedly wash it down with a glass of foaming lager and rush to their accustomed place in the court house, ready and willing to answer any question that may be propounded by the officer of the law touching their competency to serve as jurors.

After the reader has placed side by side the foregoing imperfectly sketched pictures he will be able to have a moderately fair comprehension of the professional juror of Marion county. These men, as a class, always coincide with the views of the prosecuting officer, who is always laboring for conviction whether the accused is guilty or innocent. The professional juror always votes "guilty" in order to please the court house officials, for he well knows to incur their displeasure is to forfeit his chances for future service as a juror.

I have been a close observer of the inside workings of the criminal court, the mayor's court and the police department of Indianapolis for the past twenty years or more, and feel that I am fully competent to write on such subjects as I have here introduced. In years gone by, the old police force of Indianapolis was a disgrace to the city. The officers, with few exceptions, stood in with thieves and confidence men, and regularly received their "divy" of the "swag." They also levied tribute upon the keepers of gambling-houses and houses of ill-fame, from the gilded palace, where wealth, luxury and ease abounded, to the lowest dive, where the more wretched and abandoned were compelled to live in squalor and from hand to mouth. All were required to contribute according to their means to the heartless and exacting guardians of the public morals and the safety of the people. All these grasping and venal officials to whom I have referred have long since passed

away. All of them died in poverty, and if it had not been for the charity of a few men they would have been buried in the potters' field. There are a great many citizens now residing in Indianapolis who will certify to the truth of my statements.

In 1883 a Democratic legislature passed what is known as the Metropolitan Police Bill. This bill was passed upon the demand of citizens and tax-payers, regardless of politics, of men who had become heartily disgusted with the conduct of the old police force. The organization had been run for years in the interest of Republican politicians. The only qualification necessary to secure a job on the old force was to be a ward-sluggler. The passage of the Metropolitan Police Bill was vigorously opposed by this class of politicians, who raised a fund, and by every other means tried to defeat its passage. They were unsuccessful, and after a vigorous fight the bill became a law. Under the provisions of the act a board of police commissioners was appointed, composed of two Democrats and one Republican. These commissioners were gentlemen well known as business men and tax-payers of the city. The board immediately reorganized the police force by selecting the best material out of the old force and adding new members who were thoroughly qualified for their positions. The force is composed of half Democrats and half Republicans, and the law creating the force makes it an offense for any officer to take part in politics, punishable by dismissal from the force. This force has given great satisfaction to the tax-payers, and since its organization to the present time I have never heard of an officer receiving tribute or of levying blackmail, and very few officers have been reprimanded for drunkenness. There is still room for improvement in the management of the police force, which will be brought about, perhaps, in time. The city of Indianapolis covers too much territory for the present small force of men to entirely patrol to the satisfaction of themselves or the public. I write of these things

in Indianapolis because, as a councilman for several years, I have been in a position to see and to know whereof I write.

The campaign of 1886 was hotly contested on both sides, and neither party was sparing in efforts to win a victory. The Republicans were determined to regain what they had lost in the campaign of '84, and to that end every effort was put forth. Many mean things were said of the candidates on both sides. The Republican press, all along the line, charged that the Democratic ticket was "a Coy ticket." This was kept up from the day the ticket was nominated to the day of election. The Republican battle-cry was "Coyism must go," and this hostility was owing to my success politically as also to the firm grasp I had on the ward that had first elected me to the council and that had stood by me in all my efforts to inaugurate a reign of honesty in city and county affairs. The success attending my management of the campaign of 1884 had made the Republican leaders desperate. A deep laid conspiracy was then concocted to remove me out of the way of Republican victory, as all other means previously used had signally failed. The election of 1884 gave the Democratic party of Marion county a majority on the board of county commissioners. This was the first time that the Marion county Democracy had been able to control the board for thirty years. The taxpayers of Marion county were fully aware of the gross mismanagement of the Republican officials, and of the tribute levied for the purpose of maintaining a powerful ring of unscrupulous politicians who had for years controlled the purse-strings of Marion county. Contractors and jobbers had for years fattened on the spoils of office. The building of the Marion county court-house is monumental of official corruption, and, in fact, every contract for the building of bridges, the repairing of highways, down to the letting of contracts for supplies for the various institutions of the county, made up a record of astounding cor-

ruption. Every county treasurer, during the reign of the Republican party, with the exception of two, when he went out of office, had made a record which showed that he was a defaulter to the tune of many thousands of dollars, and no action was ever taken by the party in power to bring these unfaithful servants to an account, and the sheriff's office was run in a similar manner.

If the reader could take the time to examine the vouchers filed with the board of county commissioners by sheriffs, during the period of which I write, he would be convinced of the absolute truthfulness of my statements. I have known vouchers to be filed for the maintenance of prisoners at the county jail, where three hundred, and as high as four hundred, names would appear on the monthly list, costing the county the enormous sum of twenty-seven hundred dollars per month. These bills were always allowed without examination by the board of commissioners, for the reason, that for years men were taken up and elected county commissioners who could barely sign their names. Such were the kind of men who were selected for county commissioners and given the management of the business affairs of Marion county, and the disposal of millions of the tax-payers' money.

The board of county commissioners are elected to guard the treasury, and to act as a check upon county officials in the expenditure of the people's money, and should be honest and competent business men. There were other abuses in the sheriff's office during the times of which I write. Fines were collected, and never turned in to the proper custodian of funds, that is, to the county treasurer. Persons were sent from the mayor's court to the county jail, committed for thirty days. A friend might appear in the course of the day with five or ten dollars, and the prisoner would thereupon be released, but his name would still appear on the jail list until the expiration of his sentence, and the sheriff would draw pay for his maintenance from

the county treasury for the entire period of his commitment. Other abuses were practiced in the sheriff's office, which I have not time to mention. I only refer to some of the more glaring instances of malfeasance in the sheriff's office, desiring it to be understood that all other county offices were equally corrupt.

After the election of 1884 a board of Democratic county commissioners came into power, and with the new board came a new era in county affairs. Economy and reform were the watchwords, and a new departure was ordered in every department of the county government. Business principles were introduced and every official was required to give an account of his stewardship. All bills and vouchers were carefully examined before they were passed upon. All overt charges, if any, were stricken out. By the adoption of this system the county board gave the officials to understand that they were not to be trifled with, and as a result, during the two following years the commissioners were able to show the tax-payers of Marion county that thousands of dollars had been saved and placed to their credit in the treasurer's office. As a consequence, at the next general election the people gave them substantial assurance of their confidence by electing the entire Democratic ticket, excepting one or two minor officials.

This was the beginning of my troubles. Two successful campaigns in succession, resulting in breaking up one of the most powerful rings that had ever fastened its grip on this or any other community, aroused the most intense hostility towards me. The political hacks, contractors and jobbers were goaded to madness as they saw the last vestige of their political power and official patronage swept from their grasp. Then the great conspiracy was formed by calling the "citizens meeting," composed of Republican politicians, disappointed office-seekers and men who had formerly controlled the patronage of the county. A few good and well-meaning citizens were drawn into the plot,

while the real managers of the conspiracy were in the background pulling the wires. This select committee of wire-pullers had issued the edict that "Coy and Coyism must go," though it required placing Coy behind prison bars.

The period having come when the Democratic party, after many years, was able to control the election board, the inspectors and judges were selected with great care. A great many of them, however, were not familiar with their duties, and the Republicans, through their executive committee, attempted to take advantage of this situation by sending out a circular letter on the night of the election, instructing the Republican judges to get possession of the outside tally-sheets. Now, for the information of those who are not familiar with the Indiana statutes on this subject, I will state that the Indiana election law requires two tally-sheets and two poll-books. One set is kept by a Republican clerk and the other set by the Democratic clerk. The law also requires that after the ballots have been counted, and the poll list filled out and the tally-sheets have been footed up, the inspector, under the law, is required to take possession of both poll-books and both tally-sheets, and also the tickets, or ballots, that were voted in each precinct. One set of poll-books and the tally-sheet, together with the ballots, are to be deposited in a paper bag and securely tied up and sealed with sealing-wax. This bag with its contents is to be deposited with the county clerk as soon after the election as possible, but not later than 10 o'clock on the following Thursday, the day fixed by law, when the canvassing-board must meet and canvass the vote. The second set of papers, one poll-book and one tally-sheet, designated as the "outside papers," and the papers which the inspector, under the law, must retain in his possession and bring with him to the canvassing-board on Thursday. These are the papers from which the official vote is canvassed. After the vote has been canvassed by the inspectors and they have signed the

official report of the canvassing-board, a certificate of election is given to each candidate who has received a plurality of all the votes cast. Upon this certificate the Governor issues their commissions.

The Republican executive committee had fully canvassed the situation, and realizing the uncertainty of the result of the Republican ticket, they became desperate and determined to defeat the will of the people through the canvassing-board if it became necessary, as was evidenced by the secret instructions given out in the circular referred to from the executive committee to the Republican judges, instructing them to get possession of the outside poll-books and tally-sheets, the ones from which the official vote was to be canvassed. The Republican judges were given to understand by the circular that this was the law. This circular was drawn up by two well-known Republican lawyers, who were members of the Republican executive committee, and sent out in the name of the chairman of the Republican central committee, which was contrary to the election laws of Indiana. The object of this circular was transparent to every intelligent citizen.

The intention of the Republican conspirators was to get possession of the outside tally-sheets, or a majority of them. This done, the Republican judges would have organized the canvassing-board instead of the Democratic inspectors, who were the proper persons, designated by the law to perform that duty.

The Republican circular created trouble in almost every precinct throughout the county. Hard words were passed between Republican judges and Democratic inspectors, and in some cases they almost came to blows. Six of the Republican judges were successful in securing the outside tally-sheets from Democratic inspectors. When information was brought to me, at my rooms at the Grand Hotel, on the morning after the election, by Democratic candidates and messengers from various precincts, in regard to

the circular, and what was going on, I quickly perceived the object of the circular and the danger which threatened the Democratic ticket. The Democratic candidates, who had gone through a hotly-contested campaign, and who were fairly elected, were about to be robbed of their hard-earned victory, by as foul and damnable conspiracy as was ever conceived by corrupt and designing men. I immediately dispatched messengers to the court-house and to the various precincts with instructions to notify the inspectors to retain possession of both tally-sheets at all hazards, and keep them in their possession until Thursday morning, and then bring them to the canvassing-board, which, without my instructions, they had a legal right to do. Thus, again were the base conspirators thwarted in their attempts to overthrow the will of the people.

Owing to the bitter feeling that had been engendered during the campaign by personal abuse, the rank and file of both political parties had been wrought up to fever heat, and men were liable to say and do things which afterward, perhaps, would be regretted. This was the state of affairs on Thursday morning, November 4, 1886, when the canvassing-board met in the circuit court room to canvass the vote. The Democratic inspectors were on hand and organized the board at 10 o'clock A. M., and proceeded to business under many difficulties. Both political parties were represented by attorneys, and finally, after much wrangling and political skirmishing, the board proceeded to canvass the vote. Irregularities were found in the poll-books and tally-sheets in almost every precinct. There was crimination and recrimination on the part of opposing attorneys; charges of fraud were freely made by both political parties during the entire day and night. The circuit court-room and the lobbies of the court-house were filled with excited people representing all political parties. Loud talk was the rule. Parties vied with each other in boisterous and violent language, and some seemed inclined to

indulge in blows. The work of the canvassing-board was not completed until about 5 o'clock Friday morning, and during the count several of the tally-sheets were found to have been mutilated and disfigured in the votes for judge of the criminal court and for coroner. The remainder of the Democratic ticket was elected by a handsome majority, ranging from 600 to 700 plurality.

All the officers were given their certificates of election and assumed the duties of their offices, with the exception of coroner. The Republican candidates for criminal judge and for coroner entered suit for these positions, claiming that they had been counted out. After several weeks of skirmishing by lawyers on both sides, a recount was finally decided upon, to be had in the presence of one of the superior judges. At the conclusion of the recount it was decided that the Republican candidate for judge of the criminal court and the Republican candidate for coroner had been elected by a small majority, and the offices named were immediately vacated and the Republican officials installed.

After the canvass of the vote was announced, a so-called citizens' committee was organized. The committee proceeded to raise money to prosecute certain cases. The first step taken was to secure the poll-books and tally-sheets in the possession of the county clerk of Marion county and take them to the clerk of the United States district court of Indiana, in the postoffice building.

Samuel E. Perkins is the only man I can conceive of who could have had a motive in the alteration of the tally-sheets in the interest of the criminal judge. Some six months before the election two men were arrested and placed in jail for "bunko-steering." Their bonds were originally fixed at \$4,000. A few days after their arrest a gentleman from St. Paul, Minnesota, brought letters of introduction to me from two well known citizens of St. Paul, who formerly resided in this city, requesting me to show the bearer

such favors as were in my power to offer. The gentleman bearing the letters of introduction told me he was in Indianapolis in the interest of the two men referred to, who were in jail. He told me he was very anxious to get them out on bail and asked me if I was acquainted with any person who went on bonds for pay. I told him of a man by the name of Perkins, the only man I knew of, who made that his business. He asked me if I would be kind enough to see Perkins and ask him to go on the bonds, and inquire what his charge would be. I found Perkins and made known my business, and Perkins agreed to go on the bonds of the bunko-steerers for \$700. I reported the fact to the gentleman, who agreed to pay the amount. He immediately met Perkins at the sheriff's office and the bonds were drawn up and signed by Perkins.

After signing the bonds, Perkins turned to me and said: "The newspapers will make quite a howl on me for going on these bonds, but if you will sign your name along with mine it will perhaps relieve me of a great deal of newspaper criticism." I told him I was not a freeholder and could not be held responsible on the bonds. He said he understood that, but that it made no difference. I then told him if by placing my name on the bonds would relieve him of newspaper criticism, I should sign them with him.

The matter was then settled, and Perkins was paid \$700 for going on the two bonds. The parties were then released from jail, and immediately left the city.

The grand jury found a bill against the men, and their case was set for trial; but they failed to appear and their bonds were declared forfeited. In the meantime, the bonds had been reduced from \$4,000 to \$2,000. The election was then also at hand. Perkins always seemed anxious that Albert Ayers should be elected judge of the criminal court. Ayers and Perkins then lived in the same ward, and Perkins would manage to meet him nearly every morning on his way down town to his office, and never

failed to remind him of the active part he was taking in his election. After the election was over, and Ayers had taken his seat as judge of the criminal court, Perkins immediately commenced to bring influences to bear on Judge Ayers to set the bonds aside, and thus relieve him (Perkins) of their payment. Perkins induced men of standing, in both political parties, to go to Ayers and exert their influence in his behalf. He would go out of his way almost every day to meet and ask me if I had seen Judge Ayers in regard to those bunko bonds. Becoming weary of his annoying solicitude in the matter, I finally invited him to go with me to see Judge Ayers about the bonds. He accepted the invitation, and accompanied me to the criminal court-room. I left him in the court-room while I went into the private room of the judge for the purpose of saying to that official that he could not afford to set aside Perkins' bunko-steerers' bonds; that such an act would ruin him politically and injure his party. Judge Ayers then remarked that he was glad to know that I fully coincided with his views and determination in the matter, and expressed a desire that I would explain the matter to Perkins. I promptly carried out the wish of Judge Ayers. I saw Perkins and told him that Judge Ayers would not disturb the bunko bonds, and explained to him that it was not proper that such a request should be made. I told him to let the matter rest, and in time he would doubtless be able to adjust the matter in a way that would be satisfactory. This was perhaps my last interview with Perkins, and it occurred a short time before Judge Ayers vacated his office; in fact I do not remember that Perkins bothered me any more after that interview. Personally, I was never under any obligations to Perkins, and the last transaction I had with him was that relating to the bunko-steerers.

I am induced to give such facts relating to the character and history of this man Perkins, that my readers may know the position he occupied in public opinion

before he developed into the main prosecuting witness for the Government in the tally-sheet cases, and then leave them to judge for themselves whether it is probable that I, knowing the man as thoroughly as I did, would commit the astounding folly of placing myself in his power, and that, too, after warning others for years not to trust him.

As I have previously stated, the bonds of the bunko-steerers remained intact in the criminal court. Judge Ayers had flatly refused to set them aside. I had advised him to stand firm in his decision. Perkins became reckless. Eli Ritter, the attorney of the committee of one hundred was scouring the county for information upon which to base an indictment against myself. Perkins had said that money had been offered him to tell what he knew. Now was the opportunity for him to be reimbursed for the loss of his forfeited bonds, and also to get even with Judge Ayers and myself.

The election of 1886 was over, the canvassing-board had met and completed its work on Thursday, November 4. It was shown in the canvass of the vote that some person or persons had committed forgeries in changing the tally-sheets in the second precinct of the Fourth ward, in the second precinct of the Thirteenth ward, in the first precinct of the Seventeenth ward, in the second precinct of the Eighteenth ward and the first precinct of the Twenty-third ward.

On November 15, 1886, the Federal grand jury began the investigation of the alleged election frauds and continued the investigation until the 23d of the month, when the jury requested more definite instructions relating to their duties. Judge Woods thereupon re-charged the jury and they resumed their deliberations. The tally-sheets were submitted in evidence and about one hundred witnesses were examined. The jury continued the investigation until December 4th, when a final report was made, in

which it was stated that the evidence was not sufficient to warrant an indictment. Judge William A. Woods thereupon severely reprimanded the jury for not finding indictments against the accused and dismissed them.

On December 7, 1886, Dr. Theodore A. Wagner filed information before United States Commissioner Van Buren charging Simeon Coy, Henry Spaan, William F. A. Bernhamer and John H. Counselman with conspiring to mutilate and forge certain tally-sheets, on Thursday, November 4, 1886, during the canvassing of the vote in the circuit court room of Marion county. The tally-sheets that were alleged to have been mutilated were those of the second precinct of the Fourth ward, of the second precinct of the Thirteenth ward, of the first precinct of the Seventeenth ward, of the second precinct of the Eighteenth ward and of the first precinct of the Twenty-third ward. All the parties accused appeared before the commissioner on Tuesday, December 9th, and bonds were given in each case to the amount of \$500, the accused being required to appear before the commissioner December 14th. On that day the examination of the accused began. The defendants employed Messrs. Duncan, Smith & Wilson to attend to their interests, Harry Pierce, acting deputy district attorney, assisted by Eli Ritter, conducted the Government's side of the case. The mutilated tally-sheets and the poll-books were submitted in evidence, and a number of judges and inspectors of election were examined, as also other persons who claimed to have knowledge of the crime. On December 18, 1886, Samuel E. Perkins was subpoenaed before the commissioner, but refused to testify. Commissioner Van Buren immediately called the attention of Judge Woods to the matter, who ruled that Perkins must testify. On December 21st Perkins appeared before the commissioner, accompanied by his counsel, Major Calkins, and submitted a written statement, in which Perkins said: "I respectfully decline

to be sworn to testify in the proceedings at this time, on the ground that the examining officer of this court has no jurisdiction in the subject now being inquired into."

The court then committed Perkins to jail for three months, for contempt. On December 24th a petition for a writ of *habeas corpus* was filed before Judge Woods, which was denied. An appeal was then taken to Walter Q. Gresham, judge of the circuit and district courts, at Chicago, who released Perkins on a bond for \$1,000 and fixed the time for hearing the case, on February 8, 1887, at Indianapolis, but it was not decided until February 28, 1887. On that date Perkins appeared with his attorneys, Major Calkins, A. W. Hendricks and Oscar B. Hord. The district attorney was assisted by Eli Ritter. The ground was taken by the attorneys of the defendant, that the United States court had no jurisdiction in the Marion county tally-sheet cases. Judge Gresham decided in favor of Perkins, holding that the United States court had no jurisdiction in the Marion county tally-sheet cases.

On December 1st Wm. Irvin brought suit against Albert Ayers, judge of the criminal court, for possession of the office, before the Hon. Daniel Howe, of the superior court, and the case was to have been heard January 1, 1887; but when that time arrived, it had been agreed by counsel to have a re-count of the ballots. This was had, resulting in giving Irvin, for judge, and Wagner, for coroner, small majorities.

After the decision of Judge Gresham, that the United States court had no jurisdiction in the Marion county cases, the executive committee of the committee of one hundred, through their attorney, Eli Ritter, decided to drop proceedings in the United States court. On March 9, 1887, this committee of one hundred held another meeting. Several leading members of the committee addressed the meeting in regard to the decisions which had been rendered against their schemes. The designing Republican politicians who had been in the background pulling the wires were now

•

becoming frantic. A United States grand jury, composed of fair-minded men, had refused to listen to the mandates of a partisan judge. An eminent jurist of a higher court had set aside the rulings of a lower court, holding that the United States court had no jurisdiction.

Wm. P. Fishback, in a speech made before the committee of one hundred, referred to the corrupt methods practiced by New York politicians during the *regime* of Boss Tweed and the difficulties which had to be overcome to secure the punishment of the Tweed gang. Mr. Fishback also refreshed the memory of his audience by saying that two of the greatest Democratic lawyers the country had produced, viz., Samuel J. Tilden and Charles O'Connor, had devoted two years of their valuable time, without pecuniary reward, in prosecuting Tweed and his associates, and that it was due mainly to the efforts of these two distinguished Democrats that the most powerful ring that ever robbed the people of any city was broken up. But my good brother Fishback forgot to tell his big audience that Samuel J. Tilden, by showing himself to be an honest man and in favor of good government, not only won the respect and support of the people of the city of New York, but of the entire country. And it was because Samuel J. Tilden was a man of incorruptible integrity that the Democratic party made him the presidential standard-bearer in the memorable campaign of 1876. It was during this campaign that Republican newspapers and orators charged him with being a corruptionist. He was maligned by Republicans who believed that "a public office is a private snap." Nevertheless, Samuel J. Tilden overcame all opposition and was elected President, but was not permitted to take his seat. The army of Republican officials who had been subsisting on public pap found in the chairman of the national Republican committee the man they wanted, and the command was issued to hold back the returns until the machinery could be set in motion to count out the man whom the people had elected.

The scheme was aided and abetted by a Republican president who controlled the purse and sword of the nation, and the Supreme Court of the Republic was also called in to consummate a fraud of unparalleled enormity. All of this the good brother Fishback forgot to mention in his great speech, in which he advocated honest elections in his own city and county. He did not tell his audience of the crimes and outrages committed against the purity of the ballot-box during the entire period of Republican rule. He could have cited numerous cases in the county and city where he resides where Democratic councilmen, county officers and State officers had been counted out by Republican ballot-box stuffers, many of whom, no doubt, were then listening to brother Fishback and applauding his denunciations of rogues.

Since brother Fishback was so forgetful, I will make amends for his defective memory and cite a few cases of Republican rascality, which may help him, when next he concludes to go a-stumping in the interest of good government. First, there was that good old man, Samuel Beck, who was counted out several times. Second, in 1880, when "Blocks-of-five" Dudley bought the State of Indiana with a new issue of two-dollar bills. At that election the State was flooded with new two-dollar bills, and in two weeks after the election not one of them could be found in the State. Bankers and business men were requested by secret agents to gather them in, and in some instances a premium was paid for them. If the two-dollar bills had been an honest issue, authorized by the government, there could have been no necessity for gathering them in immediately after the election. My opinion is, these bills were an unauthorized issue, designed expressly for use in Indiana, the electoral vote of which was necessary to elect Garfield, and the fraudulent issue of the two-dollar bills was resorted to to supply the needed funds to consummate the scheme of corrupting the election in Indiana.

Again, in 1882, as every honest man knows, Dan Lemon was elected sheriff of Marion county, but was counted out. It was shown in the English-Peelle contest case before a congressional committee, that ninety-seven men had been voted who were at the time inmates of the Marion county jail and the Indianapolis station-house. It was at this election that the ballot-box of the second precinct of the Twelfth ward was stolen, and up to the present time has never been found. The theft of this ballot-box has always been a political mystery, and the difficulty has been to find a motive for spiriting away this ballot-box, as the ward was strongly Republican. Let me give the reader what I conceive to be a rational explanation. I think I can unravel the mystery. At the time the ballot-box was stolen there lived in the Twelfth ward a certain Republican politician who took an active part in political campaigns, and who now holds an important position. This Republican worker had sworn in forty-eight votes that were illegal, because at the time he did not own a foot of ground in the ward, and therefore was not qualified to swear in votes. Steps were about to be taken to prosecute the gentleman. The affidavits made by him were the evidence relied upon to convict him. These affidavits were in the ballot-box; as a consequence, when the ballot-box disappeared the evidence necessary to convict this Republican politician also disappeared, and a guilty man escaped. The inspector of the election in the case here referred to was John A. McGaw, an honest man, known to be such by all men who have had dealings with him, and who could not be used to cover up the crimes of any man. He neglected to do his duty in this case by failing to take the ballot-box himself to the proper custodian, as it was his duty to have done, but I am satisfied he was not conversant with the law, or, if he was, had forgotten it.

Again, in 1884, the Democrats carried Marion county, and the ballots, the ballot-boxes, tally-sheets, poll-books,

etc., were deposited with the county clerk, according to law, the clerk at that time being a Republican. A re-count was demanded by some of the Republican officers, and, during the re-count, it was found that the papers of almost every precinct had been tampered with, and the papers of one of the precincts in the Twenty-fifth ward had been destroyed.

Again, in the city election of 1885, Mr. Denny, Republican candidate for mayor, was declared elected on the face of the returns by the canvassing-board by a small majority. Mr. Cottrell, the Democratic candidate, having good reason for believing that he had been counted out by the canvassing-board, demanded a re-count. This was granted and during the progress of the re-count it was found that the ballots of the first precinct of the Eighteenth ward had been destroyed, while the poll-books and tally-sheets were preserved, and from these papers the canvassing-board was compelled to make its return, the tickets having been destroyed. The reason for destroying the tickets I have learned was that twenty of them had been counted for Denny which should have been counted for Cottrell.

CHAPTER II.

THE reader who has followed me through the first chapter has been made familiar with all the most important facts relating to my life, from childhood to mature manhood. He has seen me at school, in the workshop learning and mastering a trade; he has seen me in the common council of a growing city, elected again and again by an intelligent and appreciative constituency, not by the power of money or by the influence of the rich; he has seen me at the head of a central committee of a party distinguished for patriotic devotion to good government, and has seen that party, for

years in exile, under my administration of committee affairs, brought into power in Marion county, the most populous county in the State of Indiana. The reader has been permitted to see the cause of Republican hostility to me, and to know the reason why the managers of that party sought my ruin.

I have given the reader facts, which, however often contradicted, can not be disproved, showing that an organization of one hundred men, backed by thousands of dollars, played the part of hounds in pursuit of a hare, and that the more they were baffled by honest men, judges and juries, the more bloodthirsty and implacable they became.

Samuel E. Perkins had now become the willing tool of the Republican ringsters. The committee of one hundred had found that Perkins was willing to do anything for his own liberty. Major James L. Mitchell, the prosecuting attorney of Marion county, consented to allow Eli Ritter to act as deputy prosecutor in the grand jury room.

At the March term of the Marion county grand jury, in the year 1887, the tally-sheet cases were first brought before the jury by deputy prosecuting attorney Eli Ritter, and were continued during the entire session; but the jury adjourned without finding indictments against any one for the alleged tally-sheet forgeries. On Monday, April 4th, the jury again met in regular session, but before retiring for deliberation were addressed by Judge Irvin, who gave explicit directions in regard to the tally-sheet cases. This done, the jury proceeded to perform its duties, with Ritter the chief examining officer. It was during this session that Perkins was subpoenaed, and it was at this time that he testified that he (Perkins) had committed the tally-sheet forgeries, and that the forgeries were committed on Thursday, the 4th of November, 1886. Perkins at the same time testified that Simeon Coy, chairman of the Marion county Democratic central committee, had come to him (Perkins) on the morning of November 4, 1886, during the canvass

of the votes, and told him that the candidate for judge of the criminal court on the Democratic ticket was defeated, and that I suggested to him that he had better get possession of some of the tally-sheets and make enough changes to secure the election of Judge Ayers. The question was put to Perkins by Harvey Mathews, foreman of the grand jury: "Is this all you know about the case?" Perkins replied: "This is all I know." The foreman of the jury then asked Perkins: "Was there any one else besides Coy connected with you?" To this Perkins replied: "I have told you all I know about these cases." The grand jury made its final report April 14, 1887, but failed to find an indictment against any one in the tally-sheet cases.

The grand jury was composed of six men, and they refused to find an indictment against any one based on the testimony of a self-convicted forger. After this it was shown that an agreement had been entered into between the State prosecutor, and S. E. Perkins and Eli Ritter, by which Perkins should be protected from criminal prosecution, provided that by his confession, an indictment should be found against myself for the tally-sheet forgeries. There should be no mistake in such matters, and I therefore submit the agreement in full as follows:

Whereas, the State of Indiana, represented by James L. Mitchell, prosecuting attorney, and Eli F. Ritter, one of the deputies of said Mitchell, contemplates instituting criminal proceedings against Simeon Coy and others, on the charge of having made unlawful changes and alterations in the tally papers and certificates of the election officers of a number of the election precincts of the county of Marion and State of Indiana, said tally papers and certificates having been made and prepared by said election officers of said precincts showing the result of the vote for criminal judge and coroner of said county, at the November election, 1886;

And whereas, said State of Indiana, by said prosecuting officers is informed and believes that Samuel E. Perkins has personal knowledge of facts that are important and are material to said State of Indiana in said prosecutions;

And whereas, said Samuel E. Perkins can not be required to testify to these facts because they tend to criminate him, and has agreed to testify to said facts if the State of Indiana will agree not to prosecute him in any form on

account of his connection in any manner with said unlawful changes and alterations or any of them, with which he may have been in any manner connected;

And whereas, said State of Indiana by said prosecuting officers has agreed and hereby agrees with said Samuel E. Perkins, by Baker, Hord & Hendricks, his counsel, that if he will upon the request of said State of Indiana by said prosecuting officers or their successors in office, waive his right to refuse to testify because his testimony would tend to criminate him, and will testify to such facts substantially when called upon by said State of Indiana in any prosecution at any time hereafter, said State of Indiana will not now, nor at any time hereafter, institute, maintain, or carry on any prosecution in any form against him, on account of anything he did or any connection he may have had with or about said unlawful changes or alterations or any of them.

And now, under the aforesaid agreement, and for the purpose of carrying the same into effect, the said Samuel E. Perkins, by his said counsel, submits to said prosecuting officers a statement of said facts, and by his said counsel, and in consideration of and moved thereto by the representations and promises of said State of Indiana made by said prosecuting officers hereinbefore stated, agrees to waive, and hereby waives his said exemption and agrees to testify substantially to the facts submitted, upon the request of said State of Indiana, made by said prosecuting officers or their successors in office, in such prosecutions.

The statement of facts submitted by said Samuel E. Perkins, by his said counsel, to said prosecuting officers is as follows, to-wit:

On the 4th day of November, 1886, being the day upon which the board of election canvassers met at the circuit court room in the court house of Marion county, Indiana, Samuel E. Perkins was at said court house and met Simeon Coy at or near the door leading from the principal hall of said court house into the little hall at the east end of the circuit court room. This little hall is the means of communication from the east end of the circuit court room to the wash room and water closet of the circuit court room. Simeon Coy then and there told said Perkins that Ayers, a candidate for criminal judge, and Morrison, a candidate for coroner, were behind, and that some more votes were needed to elect them, and requested said Perkins to get the election papers of his (Perkins') precinct and help them out. Thereupon and upon this request of said Coy said Perkins went to Allen Hisey, the inspector of the precinct referred to by said Coy, and got from him the poll-books, tally-sheet, and the certificate of the election officers of said precinct—the precinct referred to is a precinct of the Thirteenth ward, of the city of Indianapolis, of which said Hisey was inspector of the election held on the 2d day of November, 1886. Immediately upon getting said poll-books, tally-sheet and certificate from said Hisey, said Perkins went with them to said Coy and found him at or about the same place he had met him before, and told said Coy that he had said election papers. Thereupon said Coy walked east upon

the principal hall of said court house, and upon the same floor, said Perkins going with him, to a room that said Perkins thinks was No. 59 of said court house. Said Coy unlocked the door of said room and he and said Perkins entered it. Said Coy then told said Perkins that said Ayers, candidate for criminal judge, was about eighty (80) votes behind, and that his (said Perkins') precinct would stand a change of sixteen (16) votes each way, so as to make a change in favor of said Ayres of thirty-two (32) votes in said precinct. Said Coy then requested said Perkins to use a knife and erase from said tally-paper sixteen of the votes marked thereon in favor of Irvin for criminal judge, he being a candidate for that office, and mark upon said tally-paper sixteen votes for said Ayres in addition to the number of votes then marked thereon for said Ayres. Said Perkins then told said Coy that he had no knife with which to make said erasures, and said Coy handed said Perkins a knife with which to make them. Said Perkins then with the knife so furnished by said Coy commenced making the erasures of said sixteen votes from said tally-paper, as requested by said Coy, intending after this was done to add sixteen votes to the votes of said Ayres upon said tally-paper. Perkins after making said erasures of said sixteen Irvin votes upon said tally-paper, marked, as he thinks, sixteen votes thereon in favor of said Ayres. Said Perkins is not absolutely certain whether the number of votes he marked in favor of said Ayres was fifteen or sixteen, and thinks an examination of the tally-paper will perhaps enable him to determine. Said Coy stood by said Perkins a part of the time while he was making said alterations in said tally-papers, looking on and seeing him make them, and before they were completed said Coy left the room for a very short time, but returned to the room before said alterations of said tally-papers were completed, and looked on and saw them completed. After said Perkins had made the alterations in said tally-paper as to the votes for criminal judge, as requested by said Coy, said Coy requested said Perkins to alter the certificate of election officers of said precincts so as to make it correspond with the tally-paper as altered, but said Perkins declined to alter said certificate as requested by said Coy. No alterations were made by said Perkins in said certificate or the poll-book.

After the tally-paper had been altered by said Perkins as stated, said Perkins went out of said room, leaving said Coy therein, and Stephen Mattler as he now remembers in the principal hall of said court house upon the same floor as the circuit court room, near where the western stairway reaches it, and handed him the poll-book, certificate and tally-sheet aforesaid and requested him to hand the package to said Hisey.

Said State of Indiana, by said prosecuting officers, hereby stipulates and agrees with said Samuel E. Perkins, through his said counsel, that it is satisfied with the statement of facts so presented; that prior to the time that he is called upon by the State of Indiana to testify, no criminal proceedings in any form shall be instituted, carried on or maintained against him, growing out of said unlawful alterations and changes of said election papers or any

of them; and that upon his complying with this agreement, and testifying substantially to said facts whenever called upon to do so by the State of Indiana, by said prosecuting officers or their successors in office, no prosecution or prosecutions in any form shall at any time be instituted, carried on or maintained against him on account of anything he may have done about or any connection he may have had with said unlawful alterations and changes.

The fact that the present or any future grand jury may not return any indictment or indictments against any of the persons supposed to have been connected with said unlawful alterations and changes, or the fact that there may be no conviction or convictions upon any indictment or indictments that may be returned or upon prosecutions in any other form, shall not in anywise effect the immunity from prosecution hereby promised and provided for to the said Perkins.

Said Perkins by his said counsel agrees to carry out this agreement in good faith, as the condition of its being entered into by the said State of Indiana by said prosecuting officers.

This agreement is entered into with the knowledge and approval of the judge of the criminal court of Marion county, Indiana.

For the purpose of authenticating this agreement, it is signed by said State of Indiana by said prosecuting officers and by said Perkins, by his said counsel this 29th day of March, 1887.

JAMES L. MITCHELL,
Prosecuting Attorney Nineteenth Judicial Circuit, State of Indiana.

E. F. RITTER,
Deputy Prosecutor.

SAMUEL E. PERKINS,
By Baker, Hord & Hendricks.

The reader should remember that the persons composing the Marion county grand jury were citizens of the county. They knew me and they knew Perkins, and they refused to believe Perkins under oath. The jury believed him guilty of perjury, and, as I have said, no indictments were returned. But, notwithstanding this, Judge Irvin, after the jury had made its final report, lectured the jury for not accepting his testimony, failing to discover how it was that honest men doubted the unsupported word of Perkins.

Again, on May 2, 1887, the Marion county grand jury met for the third time, and again considered the tally-sheet cases. Again Judge Irvin lectured the jury in regard to their duty in the tally-sheet cases. The old ground was gone over again, but the jury, having prudent regard for their

oaths, refused to find indictments. The grand jury met again in June and the committee of one hundred partisans were found still knocking at the door for indictments. The same old chestnuts were warmed over and cracked, but the jury were men who were willing to abide by their own consciences, and as a consequence no indictments were found. The jury was finally discharged, after having the tally-sheet cases before them at every session for six months, but not until Judge Irvin had taken another whack at them in the form of a lecture for their neglect of duty in not taking the word of Perkins, the man whom they at first refused to believe.

On the first Monday in July, 1887, another grand jury was drawn. Before entering upon their duties, Judge Irvin took them in hand, and intoned another lecture on the tally-sheet cases. The Republican theory was outlined, and during the entire six months of this grand jury's existence the heelers and howlers were on hand, urging the jury to accept the testimony of Perkins, and find indictments in the tally-sheet cases. The committee of one hundred resolved itself into one hundred committees, and Eli Ritter was attorney for them all. But no indictments were returned.

On the first Monday in January, 1888, another grand jury for the Marion county courts was drawn.

As a matter of course, Judge Irvin delivered his tally-sheet lecture. He had learned it by heart. Having commenced the investigation, the mutilated tally-sheets and the poll-books were again brought from the custody of the clerk of the United States court, and submitted to the scrutiny of the jury. This had been done in every investigation. Perkins repeated his story, but when the jury was finally discharged, no indictments had been found.

The tally-sheet cases had by this time attained national notoriety. Many efforts had been made to debauch the Federal and State judiciary. The purpose had been to partisanize the courts.

Commencing with the organization of the committee of one hundred, on the 5th of November, 1886, the tally-sheet cases had been brought to the attention of the Federal grand jury in that month, but no indictment was found. Then there was an effort to get in partisan work before United States Commissioner Van Buren, and by *habeas corpus* proceedings the whole matter was thrown out of the United States courts by Judge Gresham. Then, as I have shown, the State courts were appealed to, and during the terms of three grand juries, covering a period of eighteen months, the evidence, such as it was, and all that could be obtained, or ever was obtained, was rehearsed and relashed, until the tally-sheets and the poll-books were about worn out, and while some of the committee were besieging the State courts, the others, with their attorneys, were trying to find means to again break into the Federal court.

On May 3, 1887, a new Federal grand jury was drawn. Two members of this grand jury were active members of the committee organized to indict, and it was shown during the trial that followed, that two of the jurors had furnished money for the use of the committee of one hundred, to assist it in prosecuting the tally-sheet cases. One of these men was selected by Judge Woods to act as foreman of the jury. The jury was promptly convened and Judge Woods, like Judge Irvin, instructed the panel in regard to their duties, and offered special instructions regarding the Marion county tally-sheet cases. It was before this second Federal grand jury that Perkins changed his story, so as to include nine other persons besides myself, making a total of eleven persons, with himself. It must be clear to the minds of all unprejudiced persons that Perkins committed perjury before the county grand jury in April, or before the Federal grand jury in May. In fact, he had committed perjury on both occasions. He had never told the truth, but to make his perjury clear as noon-day, he had contradicted himself.

The Federal grand jury made its report on the 20th of May, 1887, and found indictments against the following persons, viz.: Simeon Coy, Will F. A. Bernhamer, John E. Sullivan, John H. Counselman, George W. Budd, Stephen Mattler, Charles N. Metcalf, John L. Reardon, Henry N. Spaan, Albert T. Beck and Samuel E. Perkins. The indictments charged the indicted men with forgery and the mutilation of tally-sheets on the 4th day of November, 1886.

On May 21st all the indicted persons appeared and gave bonds in the sum of \$500 each.

At this session of the Federal grand jury indictments were found against Gen. James R. Carnahan, chairman of the Republican central committee of Marion county, and William F. Barrows, a member of the Republican committee of the Twenty-first ward. Carnahan was indicted for trying to obtain illegal possession of the tally-sheets of the various wards from Democratic inspectors, who were the lawful custodians of the papers. Barrows was indicted for voting twice in the same ward and precinct at the election held November 2, 1886.

On July 2d the attorneys for the defendants in the tally-sheet cases appeared before Judge Woods, and made a motion to quash the indictments, on the ground that the United States court had no jurisdiction in the matter. The motion was overruled, and the defendants were ordered to be ready for trial July 19, 1887. My attorneys thereupon held a consultation, and it was determined that I should surrender myself and go to jail for the purpose of instituting *habeas corpus* proceedings before Judge Gresham. On July 7, 1887, I was committed to jail. My attorneys at once proceeded to Chicago to file a petition for a writ of *habeas corpus* in the United States district court. Judge Gresham, having important business on hand, referred the whole matter to Justice Harlan, of the United States Supreme Court, who designated July 15, 1887, for the hearing of the peti-

tion. On that day my counsel appeared before Judge Harlan and argued the case. At this time my attorneys were assisted by ex-United States District Attorney, Charles Holstein, who had held the office of district attorney for many years, and who enjoyed the reputation of being thoroughly familiar with the Federal statutes, and I am satisfied that no case was ever handled with greater skill. Every decision rendered in the various district courts of the country bearing upon the case was referred to, and presented to the court with ability; but on July 16th Justice Harlan refused to grant my petition, and I was again admitted to bail, and ordered to appear for trial July 19th, 1887—a day long to be remembered by those who were directly interested in the celebrated tally-sheet cases, now regarded as one of the most important political trials that ever occurred in the United States.

At 2 o'clock in the afternoon of July 19, 1887, the United States court-room was crowded with defendants, witnesses and attorneys, and the lobby was filled with spectators, who were eager to observe the proceedings. Judge Woods was on hand at the appointed hour. Ten of the defendants were present. Samuel E. Perkins, having plead guilty, had been permitted to go, on the light fine of fifty dollars.

The attorneys for the defense were Byfield & Howland, Jason B. Brown, Judge Cyrus McNutt, Wm. D. Bynum, and Francis J. Mattler, who appeared for his brother Stephen. District Attorney Sellers and Judge Solomon Claypool appeared for the government.

Mr. Byfield explained to the jury that the title of the case they were called upon to try was *The United States vs. Simeon Coy et al.*, and that the charge against the defendants was based upon an indictment found by a grand jury of the United States district court, charging them with entering into a conspiracy on or before November 2, 1886, to have the officers of the various election boards, mentioned in the indictment, omit to do certain duties

required of them by law, and further, to obtain possession of certain tally-sheets, for the purpose, as set forth, of unlawfully changing the results of the election.

Judge Woods had ordered a special venire of sixty qualified citizens to be drawn outside of the Seventh Congressional District. This was done, and after some challenging on both sides a jury was empanelled and sworn.

CHAPTER III.

THE great political trial was now fairly under way. The necessary machinery had been procured and adjusted. The committee of one hundred had expended a pile of money and was still collecting. Perkins had been in the hands of his trainers until he had been brought down to the proper weight, and could be depended upon to swear straight, or crooked, or curved, up or down, as his owners might demand. Judge Woods, who had donned his United States judicial ermine by virtue of the purity of Dudley-Dorsey, soap and two-dollar bills, right out of the mint, surveyed the scene with that serene composure which characterized Mr. Justice Bradley when Hayes was awarded the Presidential chair, which certainly belonged to Tilden, said: "Let her go, Gallagher," or what was about the same, and the judicial machinery, properly oiled with the best in the shop, started off without friction. The jury empanelled to try the case was composed of the following named gentlemen, to wit:

George W. King, of Johnson county.

Ezra Wood, of Jefferson county.

John B. May, of Warren county.

John Vandervarter, of Vermillion county.

David B. Dinsmore, of Vermillion county.

James H. Fear, of Tipton county.

John F. Hunt, of Vermillion county.

Willard S. Bowen, of LaPorte county.

Samuel Nicholson, of Sullivan county.

Harvey Fulwider, of Bartholomew county.

Charles N. Anderson, of Cass county.

William Stone, of Dearborn county.

Eight of the jurors were men over sixty years of age. The youngest man on the jury was Willard Bowen, who was about thirty five years of age. The next youngest man was Harvey Fulwider, who was about forty years of age. There were two others about fifty years of age. They were men of intelligence, and of large experience in business affairs.

The jury having taken the required oath, was addressed by the judge as follows :

GENTLEMEN OF THE JURY: For the present, at least, and probably during the whole trial, you will be kept together under the charge of the bailiff put over you by the marshal. You will be supplied with cots and bedding and have this room and the one adjoining. The marshal will provide for your board; he will, wherever he may take you, provide you tables by yourselves. If at proper hours, when the court is not in session, you desire recreation, you will go, in charge of the bailiff, to University park. You will keep together, and you are not to talk among yourselves about this case, nor to form any opinion about it until you have heard it all. You will be careful that no one speaks to you about this trial or anything connected with it. If anybody attempts to do so, report the fact to the judge of this court. It will also be a grave offense on the part of the jury not to report such an attempt. I have no right to speak to you, nor has the bailiff, clerks or any one else, and if anybody attempts to do so, report it."

The gentlemen of the jury, thus instructed in matters relating to eating, sleeping, conversation and recreation, were taken in charge by the marshal, Edward Hawkins. They were to be kept in profound ignorance of public sentiment touching all matters involved in the trial, and were to be under such ceaseless surveillance that a glance at a daily newspaper could not be secured to cloud their understanding or warp their judgment, and having been instructed to be on hand the next morning at 9 o'clock, ready for duty, the court adjourned.

July 21st was the second day of the notable trial. Attorneys and defendants were present, and the crowd of spectators had increased in numbers. United States District Attorney Sellers stated to the jury the nature of the case they were to try, the law governing it, and what the government expected to prove. Mr Sellers explained the indictment and the United States statutes upon which it was based, being the acts of May 17, 1879, as contained in sections 5,440, 5,511 and 5,515, which defined the duties of inspectors of elections, and made it a crime for any one to procure any officer of an election to omit any duty which the law enjoins upon him. He also referred to sections 4,712, 4,715 and 4,717 of the Indiana statutes, relating to the duties of officers of elections. Following the district attorney, Judge McNutt made the opening statement for the defense. He said the law had been explicitly settled, so far as it would control in this proceeding, but he would venture to suggest a better understanding than had been given by the attorney for the Government. He said that sections 5,440 and 5,511 of the Federal statutes were the only ones pertaining to the case, and tied together the thread connecting them with the State law—section 4,712. He read and explained the indictments, and said that the scope of the conspiracy alleged was to procure the parting with election papers. He said it would be enough to allege that Perkins had done this and that, with Perkins, the prosecution has reached the utmost limit and verge of the conspiracy, and that the defense would insist that they may go no further. The only evidence they will be able to adduce as to any conspiracy will be perjured evidence. These men are to be assailed in their liberties by one of the alleged conspirators—to-wit: one Perkins—a man who is said to have taken the consummate step after the conspiracy. There will be no truthful evidence that there was any conspiracy among these men, but such evidence as the jury will have no doubt that all this accursed crime was com-

mitted by Perkins himself; that Samuel E. Perkins himself conceived and carried out the wicked purpose with his own hand, and without the knowledge of its consummation by another soul.

Judge McNutt then discussed the second and third counts of the indictment. Quite a sensation was caused by the discovery, voiced by Judge McNutt, that the indictment was defective in that it alleged that Lorenz Schmidt was inspector of the second precinct of the Twenty-third ward, when he was inspector not of the second but of the first precinct of that ward. "We shall show," he continued, "that there is no truth in the proposition that either Sullivan or Budd had anything to do with the parting by Schmidt with his election papers, and that whatever parting with them happened was solicited on Schmidt's part. Whoever took them we are not advised, but whoever it was, he was seeking them."

W. D. Bynum followed Judge McNutt. He said: "I do not know that it is necessary I should enter into a full statement of facts, as they have been covered by the counsel for the government and by the general counsel for the defense. I appear for Mr. Beck, and in his behalf desire to make a short statement. So far as Mr. Beck is concerned, I am not advised as to what particular testimony shall be relied upon for conviction, as to how or where he became a party in this conspiracy, or as to what acts it is expected to connect him with. I can only say that if any testimony of that kind is placed before you, we will be able to show clearly, conclusively and positively, there is not a word of truth in it, and that Mr. Beck had no knowledge at any time of any of the facts charged in this indictment until he read them in the public prints. We will be able to show that he is a man of good character, and any statement he may make is entitled to full credit and belief."

Henry N. Spaan next spoke. As he came forward, every eye in the court-room was upon him. He is tall, of dark

complexion, handsome, with a bright intelligent eye, and a clear and pure intonation of excellent English characterized his speech. There was no attempt at oratory, and his manner of presenting his case was favorably commented upon by a large number of members of the bar. He said: "I am one of the defendants in this case. I want to give you a detailed history of my connection with the case in order that you may fully understand the evidence of the prosecution when it is presented you. So far as I am personally concerned, I want this jury to understand the facts exactly wherever they bear upon me. I represent myself, and nobody else, and shall conduct my own defense. Wherever a witness testifies to anything that bears upon me, I shall ask the court to allow me to examine that witness and no other. I have heard all the evidence in this case once before in a public trial, and therefore I anticipate nothing when I detail what the Government relies upon as to its case against me. I refer to the case before Commissioner Van Buren, where I was one of the four defendants proceeded against upon an information." Mr. Spaan then spoke of his being at the Marion circuit court-room during the session of the canvassing-board. He spoke of the excitement and turbulence of the occasion; that he was a lawyer and appeared there as an attorney, looking after the interests of three different clients, sheriff-elect King, county clerk-elect Sullivan, and recorder-elect Brink. They had employed him, not knowing what questions might arise, and they had been elected to lucrative offices. He said it had been the first time in many years that the Democrats had control of a canvassing-board; that they were new hands, unfamiliar with their duties and powers. Many papers were not properly fitted out and gotten up in clerical form. He said it was natural, reasonable and proper that these inspectors, whoever they were, should have information as to what was necessary, and that if he whispered to them or talked to them in an aside it

was simply because of his connection as an attorney. He concluded, "I have been under the same imputation of fraud, through the newspapers, as others, and have been placed under indictment. I am for myself. I am not going to commit perjury for anybody, and am perfectly willing to testify to everything I know in these cases."

Following the address of Judge McNutt and others for the defense, the witnesses present were sworn, and Justus C. Adams, auditor of Marion county, was the first witness, and identified the records of the Marion county commissioners' court, of which he was clerk, containing the appointment of inspectors. The defense admitted the correctness of the records, and Moses G. McLain, county clerk at the time of the canvass of the vote of the county in November, 1886, was called. He identified the election papers deposited with him November 4, 1886, after they were canvassed, and stated that he had delivered them on the 10th or 11th of November, that year, to Noble C. Butler, clerk of the United States district court. These were the papers of the second precinct, Fourth ward, of which John H. Counselman was inspector; second precinct, Thirteenth ward, Allen Hisey, inspector; first precinct, Seventeenth ward, Andrew Oehler, inspector; second precinct, Eighteenth ward, John Edwards, inspector; first precinct, Twenty-third ward, Lorenz Schmidt, inspector; third precinct, Thirteenth ward, Stephen Mattler, inspector; precinct No. 6 (Belmont) Center township, Joel H. Baker, inspector. The tally-sheet papers were identified by Mr. McLain. Objections were made by Jason B. Brown, because the evidence related to matters before the commission of the crime charged. The objection was overruled, and the statement was made that it would be referred to again during the trial. Judge McNutt asked the witness, "Who delivered these papers to you?" to which Mr. McLain replied, "Mr. Bernhamer, chairman."

Noble C. Butler, clerk of the Federal court, testified as

to the time at which the election papers came into his possession, and that they had been in his custody ever since, a part of the time in the joint custody of Judge Turpie, as government attorney, and himself.

John Sanders, Democratic judge of the second precinct of the Thirteenth ward, was then introduced. He testified that he knew nothing about the forgeries of the tally-sheets in his precinct, but testified that the Republican judge of the second precinct of the Thirteenth ward attempted to get possession of the outside tally-sheets, showing a circular he had received from the Republican county committee, the purport of which was to perpetrate a crime.

I. D. Hall, Democratic clerk of the precinct, testified about the same as did Mr. Sanders.

Allen Hisey was then called. He was inspector at the election held November 2, 1886, in the second precinct of the Thirteenth ward. When asked by Mr. Sellers to examine the two sets of papers used in that precinct, the set sealed in the bag and the set canvassed by the board, the witness said he could not tell one from the other. He then narrated the return of the papers to him by Mr. Werbe, at the circuit court room during the canvass, his giving the papers to Samuel E. Perkins, who asked for them, their return to him and his presentation of the papers to the canvassing board. He said he had not seen the papers opened and did not know that anything had been done to them.

Following Mr. Hisey, Henry G. Werbe was called to the stand. He was the Republican judge of the election of November 2, 1886. Papers were handed him by Mr. Sellers for examination. He recognized them as returns of the election made out by the board of his precinct. He had taken possession of one set of papers when through counting after the election. He took them to the returning-board the following Thursday, some time between 11 and 12 o'clock. They had been in his possession up to that time from the time they were signed. He delivered them

on Thursday morning, November 4th, to Mr. Hisey, the inspector. There were no erasures made upon them while in his possession.

Following Werbe, Otto Belser testified that he was clerk of the second precinct of the Fourth ward. He testified as to various changes and erasures that appeared in the papers shown him by Mr. Sellers. Additions had been made to the tallies of the vote for Ayers, candidate for criminal judge.

The next witness was Abel E. Davis. He was one of the judges of the second precinct of the Fourth ward. He was present when the tally-sheet was signed by the board of judges after completing the count of the vote. Two sets of papers were made out. One set was put in a bag and given to John H. Counselman, inspector. He wrapped the other up and took it away. At that time he thought he had a right to do so. He kept it until Thursday, about 10 o'clock, when he gave it to Counselman. No erasures were made during the time it was in possession of witness.

Judge McNutt, on cross-examination, wanted to know by what right the witness took the papers.

Witness: I had received a circular from the Republican county committee. I showed that circular to the members of the board. They made no objection, and I took them.

Question: Did anybody look at them?

Witness: Yes, sir; at my house, on Wednesday, about 4 o'clock, County Commissioner Clinton and Mr. Hornaday looked at them and got the footings.

Q. What political party did they belong to?

The Court: What pertinency has that to the case? Well, I will let you put it, but I can not see what relevancy it can have.

Witness: Mr. Clinton, a Republican; Mr. Hornaday, I do not know.

Mr. Sellers. To whom did you deliver those papers when you took them to the court-house?

A. To John H. Counselman, at 10 or 11 o'clock in the forenoon. I took them, intending to return them to the canvassing-board, but after I got them changed my intention. I found that only inspectors were members of the board.

Thus ended the second day's proceedings of the cele-

brated trial. Every movement made by the prosecution developed intense partisan implacability. Republicans, who had for years winked at election frauds, were the loudest in howling for ballot-box purity. It was a conspicuous example of Satan reproving sin. It was such an exhibition of hypocrisy and partisan hate as was never before witnessed in any court in any land.

On the next day, July 22d, court was opened promptly at 9 o'clock, and the battle was renewed. It grew hotter as it proceeded. The court-room was packed. Every available space was occupied. Perkins was to be placed upon the stand. All eyes were turned upon Perkins. Perkins took the stand and District Attorney Sellers conducted the examination. It began and ended as follows:

Mr. Sellers: What is your name?

Witness: Samuel E. Perkins.

Question: Where do you reside?

Answer: In Indianapolis.

Q. Where did you reside on the 2d, 3d and 4th of November, 1886?

A. In Indianapolis.

Q. Are you acquainted with the defendants in this case?

A. I am.

Q. Were you present at the time the canvassing-board was in session after the election of November 2, 1886?

A. Yes, sir.

Q. Are you acquainted with Allen Hisey?

A. Yes, sir.

Q. Where does he reside—what precinct and ward?

A. In the second precinct, Thirteenth ward.

Q. In what precinct do you reside?

A. The same.

Q. You may state if any agreement was entered into between yourself and Coy with reference to the tally-sheets, poll-books, and certificates of election, after the election held in 1886, at the court house in Indianapolis, on November 4, 1886, with reference to obtaining possession of election papers.

Jason B. Brown, counsel for the defense, objected to the question.

The Court: I do not know what response the witness may make. The question is proper enough. Whether the testimony will go beyond what is proper I do not know.

The Witness : I met Coy at the court house. He stated that the candidate for criminal judge was behind, and he requested me to get the papers from Allen Hisey, which I did. I went to Hisey and got the papers.

Q. What else was said by Coy at that time with reference to the purpose for which these papers were to be obtained?

A. I told him I would try to get them.

Q. What was said between you and Coy respecting the liquor league of Indianapolis?

A. Nothing at that time.

Q. What did you do respecting this agreement to obtain possession of the papers of Allen Hisey?

A. I went to Hisey, asked him for the papers, and he gave them to me.

Q. You may state what you said to Hisey at the time you made the request.

A. I said to him that I wanted to see the papers—if they were all right.

Q. Where did you go with the papers?

A. I went back to Mr. Coy. I went with him east in the hall to a room at the east end of the building. Mr. Coy took from his pocket a key, opened the door and I went in with him. When we got in there he said the candidate for criminal judge was about eighty votes behind and desired me to make a change.

Q. What occurred in the room?

A. He said he thought that precinct could stand a change of sixteen votes each way, and asked me to take a knife and erase tallies from Judge Irvin and place them on those of Judge Ayers. He furnished me a knife and I changed the sheets, taking from Irvin sixteen votes and adding them to the vote for Ayers.

Q. Where was Coy when you were making this change?

A. When I first began he stood and leaned over the table, watching what I was doing. Before I concluded he went out of the room. He came back again by himself.

Q. What other person came in that room?

A. A few moments after Coy went out somebody tried the door. It was John Reardon, who brought in a man named Flynn.

Q. How long did Mr. Flynn remain?

A. He went over and sat down by the window and began reading a paper.

Q. Where did Reardon go?

A. He went out.

Q. Who else came in during the time you were working on this tally-sheet?

A. Mr. Mattler.

Q. What was said or done by Mr. Mattler in reference to his tally-paper or the paper in his possession?

A. Either he or Coy, one or the other, gave it to me to make a change.

Q. What did you do?

A. I changed it on criminal judge twenty-five or thirty votes, I do not now remember how many.

Q. This is the tally-sheet of the second precinct of the Thirteenth ward, Mr. Hisey's precinct [here Mr. Sellers took up a roll from the table]; indicate where upon this the erasure was made.

A. The erasure was made in these two lines here [indicating on the sheet]. Judge Irvin's vote here was reduced sixteen votes—one off here and fifteen there—and Ayres's vote was increased fifteen votes here—I think it is fifteen——

Q. Will you indicate where upon the tally-sheet of the third precinct of the Thirteenth ward [another paper handed to witness] the erasures and additions were made?

A. In Irvin's vote there are twenty-eight votes taken off and the same number added to the other.

Q. What changes were made upon the poll-book of these two precincts?

A. Not any at all, so far as I know. I refused to make any changes on the poll-books.

Q. To whom did you deliver these two after making the changes and additions?

A. Both were delivered to Mr. Mattler.

Q. Did you make any changes upon the certificates of judges?

A. No, sir; I did not.

Q. What occurred with reference to this subject between you, Coy, Mattler and other defendants upon that day? Begin in the morning and give a complete history of the transactions between you and any of the defendants with reference to these tally-sheets or any other returns of elections that were canvassed on that occasion.

A. I did nothing with any other myself than these two. I went over to the court house in the morning and met Mr. Hisey standing upon the steps, waiting with his returns sealed up in the bag. He went in with me to the county clerk, and he receipted for them and filed them away. Hisey then went up-stairs. A short time after that the board of canvassers was organized. Mr. Hisey did not have the outside papers. They had been taken away by the judge two nights before, so I went to one or two gentlemen and finally to Mr. Landers. The returns from Mr. Landers' ward were in the same condition as ours. I asked him to make a motion that the bags be sent for in precincts where there were no outside papers. He made the motion. When he made it Spaan came to me and said, "What in h—I are you doing to make that motion? How are we to use these altered tally-papers if the bags are used?" That was all there was of that motion. The next transaction I related here before. Mr. Coy stated to me they were behind with the candidate for criminal judge and asked me if I could get the tally-papers from my precinct and help them out. I went to Mr. Hisey, got the papers and took them to the room with Mr. Coy. After Mr. Mattler came in, Mr.

Smith Myers came in. Then in the next two or three minutes Mr. Daniel Burton came in. He walked up and down the room two or three times and said, "My God, this is no place for me"—and went out. When I went out I left Smith Myers and Coy in the room. I went to the canvassing room. On the way Mr. Beck came up with a tally-paper under his coat. He asked me to take it and alter it. I said that he was as able as I and that I had done my share. I had Mr. Coy's knife and gave it to Mr. Beck, and he went into Mr. Coy's room. Coy came back to me after a while and said Mattler had become frightened—

Objected to by Attorney Francis J. Mattler.

The Court: I think the case has gone so far that the evidence is competent. The testimony is good as against Mr. Coy whether against Mr. Mattler or not.

Witness: He stated that Mr. Mattler had become frightened, and had changed his tally-papers back as they were before. I asked him why, and Coy said because the certificate was not changed to correspond with the tally-sheet, and the ink was not of the same color. Coy said he would go down to the Grand Hotel and get Mr. Reardon to get ink from the same parties who furnished the ink for the election boards. I met Dr. Metcalf on the steps of the court house. I asked him if he knew of any acid. He said he would go and see. I went down to his office with him. He had some acid. He took a match and tried some of it on an envelope, and it seemed to work pretty well. We then started up the street together, and I told Metcalf that Coy was at his room in the Grand Hotel. Metcalf left me at the corner of Illinois street, and I went to the court house. After that I went to the Grand Hotel. Coy was in his room with his feet up on the table, and said he was ready for business. While there Reardon came in with a bottle of ink. I went back to the court house a few moments, and went home to supper.

Q. You may state if Coy made any remarks about the liquor league of Indianapolis having an interest in this matter and what he said?

Jason B. Brown: Is that competent?

The Court: Why not, as bearing upon Mr. Coy and his motives, whatever he said?

The Witness: During the time we were in this room Coy stated there was \$500 in it to the liquor league and we might as well have it.

Q. When you and Metcalf parted on the street after trying the acid on the envelope, where did Metcalf go, or what did he say in reference to where he was going?

A. I don't know that he stated anything, but I told him Coy was at the Grand Hotel, and I stopped at that corner.

Q. Was the place you and he parted in the direction of the Grand Hotel from his office?

A. Yes, sir.

Q. State whether or not you had a conversation with Coy and Spaan in Spaan's office afterward, and when it was.

A. I have had several conversations with them.

Q. Were you once before arrested and taken before a commissioner of this court?

A. Yes, sir.

Q. What occurred between you and Coy and Spaan with reference to what you should testify before the commissioner?

Attorney McNutt: Is this proper, your Honor? We desire to object to this evidence.

The Court: Is there a time when a party's own acts cease to have significance? An admission would be one thing and the setting up of false testimony would be another. It is not now to prove the conspiracy but the parties in the conspiracy. The record will show what objections are made.

The Witness (resuming): It was said that I should testify that I took these tally-sheets into the water-closet in the ante-room, next to the circuit court, glanced at them and saw they were all right and handed them back to him. Mr. Spaan made this suggestion. Mr. Coy was present.

Q. What conversation had you with Mr. J. E. Sullivan with reference to the expenses of that litigation, and to his having contributed money to influence a former grand jury of this court with reference to these tally-sheet frauds, shortly after the grand jury investigation?

A. I never had any conversation with him about that.

Q. What with Henry Spaan or any of the others with reference to a fund to be used to influence the grand jury of this court?

Mr. Spaan: There are two objections to that question. First, the assumption that a fund was raised, and next that it was used to influence a grand jury.

The Court: It does not assume so.

The Witness (resuming): I had very little conversation with him in regard to that fund. After the investigation before Commissioner Van Buren, Spaan left a note on my table for me at my office to come to his office at once. I went down, and he took me into a back room. He said he wanted some money and wanted it bad—wanted \$50 at once. I did not have it then. After dinner he was at my office and I gave it to him. After I had my litigation in the United States court and went to jail, I asked Henry [Spaan] if he didn't think they ought to pay my expenses. He said they had raised \$1,400, and had unusual expenses—that they had to influence men down in the country districts at their homes.

Q. What conversation did you have in reference to this transaction with Dr. Metcalf after these tally-sheets were changed at any time from that time until this?

A. I had no regular conversation with him.

Q. Had you any conversation with regard to these tally-sheet frauds?

A. He spoke to me; I said nothing to him. While I was sitting in the canvassing room Dr. Metcalf came to me and asked if the Fourth ward was in. I said, "No." He said, "It will be a dandy when it comes."

Q. Did you have any conversation with Metcalf a few days since?

A. Nothing material.

Q. Was anything mentioned or any reference made to acids procured by you or Dr. Metcalf?

A. Only that the doctor said he didn't know anything about it. I laughed, and said he ought not to talk that way to me. He scratched his head and laughed.

Q. What conversation did you have with Simeon Coy with reference to that organization of the board?

A. He asked me to ask Hisey to vote for Bernhamer.

Q. What did you do?

A. I asked him.

Q. What, if any, conversation did you have with John E. Sullivan during the meeting of the board of canvassers with reference to procuring papers of election.

A. He asked me to get the ones from the upper precinct in my ward. I asked him if he hadn't enough. He said, "yes," but he wanted to get some for his friends. The only time I saw Mr. Budd was in the evening. I was sitting on the sofa in the judge's room, talking to Smith Myers. Sullivan was talking to some gentleman with a lame foot and somebody else. They went out and a moment after that John Bowlus came running through. Sullivan told Budd to follow after him. Budd came back afterward and said, "they got away."

Q. Who were these gentlemen who had gone away?

A. Mr. Lemon and Mr. Baker, I think. Baker has a lame foot.

Q. Do you know whether or not Baker was an officer of election?

A. He was an inspector at Belmont, West Indianapolis, the stockyards.

Mr. Sellers in this connection offered in evidence the election papers of the sixth precinct, Center township, known as Belmont, of which Mr. Baker was inspector, and asked the jury to inspect the changes made on the tally-sheet.

Question: Mr. Perkins, you may examine that tally-sheet and see whether there are any indications of change in it.

Answer: I never saw it before, but it appears to have been changed.

Jason B. Brown: If your Honor please we object to this testimony. The obtaining of a tally-sheet from an election officer, or the causing of an election officer to part with his possession and dominion over a tally-sheet, under the law of Congress, and the law of Indiana, which Congress has adopted, respecting the conduct of elections, constitutes a crime complete within itself and all its parts and provisions, and the obtaining of this tally-sheet in question, of course, was a cause of the parting with the custody of it by the officer in whose custody it should have been, that constitutes a crime complete within itself, for which the officer or any person conspiring to have the officer to part possession of it, is amenable under the law. I

need not say to your Honor that proof of one crime can not be heard to establish or to help in establishing the guilt of a person in another crime, even if it is of the same grade or character, except in cases that Mr. Bynum so well referred to. Where the guilty motive, where the guilty knowledge, where the guilty intent is the element, as in most crimes it is, simply for the purpose of proving guilty knowledge or guilty intent, it is, sometimes allowed. The reason why this evidence is not allowed is this: A person is liable to trial but once for the same offense. If, therefore, this evidence goes to the jury to aid in fastening the crime upon these defendants, or either of them, and if afterward they are needed for the identical offenses involved in this tally-sheet now presented, who will pretend to say that there has not been the same evidence here against the same defendants on the two separate charges and upon the same trial. It is for that reason, and for that alone, that the law is as it is. I understand that indictments are now pending in this court against some of these defendants, at least for some of these tally-sheets now offered in evidence. Will your Honor sit here and let that evidence go to the jury to convict in this case and then, afterward, sit here and let the same evidence be heard by another jury in another case against the same defendants? Most certainly not, because it would be a violation of the law as well as the fundamental law of this country, that no evidence can be heard against an accused person except once.

The Court: The doctrine is as familiar as the general doctrine that the counsel cited. But it is subject to exception where there is an apparent connection between them that the jury may well infer that the act of one is a complicity of another. Intention may or may not be necessary in charging a crime, but it may become very material in limiting the scope of proof. The crime may be proven in law without averring any intent and yet if in the development of the evidence an intent is shown that runs through a series of actions it may so couple a series of actions together as to make them of competent proof. As to the question of whether this proof could be admissible in another trial, when that trial comes up will be the time to settle that.

The Belmont tally-sheet, which did not appear at all in the investigation before Commissioner Van Buren, and was brought to light by the United States grand jury, was here handed to the jury, and where the vote for criminal judge appeared it was indicated that changes had been made. The difference was pointed out between the tally-sheet vote which was thus changed and the vote in the certificate which had not been changed. Mr. Sellers resumed the examination of the witness, Mr. Perkins, who in answer to questions said that the number of the room in which the tally-sheets were changed was 59, in the court-house, on the same floor and same side as the circuit court room.

He also explained that in speaking of Coy, Spaan, Sullivan, Beck, Bernhamer and others mentioned, he meant the defendants in this case. He was then cross-examined by Jason B. Brown.

Mr. Brown: You were present when the board canvassed the returns of the election held on the previous Tuesday?

Mr. Perkins: Yes, sir.

Q. Where did that board meet?

A. In the circuit court room, in the Marion county court-house.

Q. At what time did it meet?

A. About 10 o'clock in the morning.

Q. Where had you been before you met the board there on that day?

A. I went from my office across the street and met Mr. Hisey standing on the steps of the court house with the sack containing the returns.

Q. That is, you supposed it was the bag?

A. Yes, sir; I assisted the night before in sealing it up.

Q. What steps of the court house did you meet Mr. Hisey on?

A. On the west—on Delaware street.

Q. You went from your office to the court-house, and met him as you went?

A. Yes, sir.

Q. Who went with you?

A. No one that I remember of.

Q. Where did you and Mr. Hisey go?

A. Into the county clerk's office.

Q. How long after you and Mr. Hisey went in the clerk's office was it until the board of canvassers met?

A. Not very long. I can't tell you exactly. We remained a little while on account of so many men in there putting in their returns.

Q. A half-hour?

A. I should think it was about a half-hour.

Q. Did you go from the clerk's office to the circuit court-room with Mr. Hisey?

A. I think I did.

Q. Did anybody else go with you?

A. I don't recollect.

Q. How long was it before the board elected a president?

A. I don't know. I went into the judge's room where Bernhamer, Coy and others were. It was not very long before the board organized—probably fifteen or twenty minutes.

Q. When you went into the judge's room who did you find in that room?

A. I remember Mr. Coy and Mr. Bernhamer. I don't remember the others. My impression is that others were coming into the room and going out all the time.

Q. What was the conversation you had in the judge's room with Coy and Bernhamer?

A. Coy asked me to have Mr. Hisey vote for Bernhamer for president of the board.

Q. Was there any further conversation at that time between you and Coy?

A. No, sir; the next conversation was about two or three hours afterward, in the ante-room of the circuit court-room—the room you go into before you get into the judge's room.

Q. How long did the conversation last?

A. It was very short, indeed.

Q. Do you remember who was in the ante-room first, you or Mr. Coy, preceding the conversation?

A. I think I was in the ante-room when Coy came in to me from the circuit court-room. No one came in with him.

Q. Did Mr. Hisey have the tally-sheet at that time?

A. During the conversation about the election of chairman, he did not. He had it during the last conversation.

Q. How do you know?

A. Because I was standing by Mr. Hisey when Mr. Werbe handed him the tally-sheet. It was 10 or 11 o'clock in the morning.

Q. What business had you over there—you were a mere spectator?

A. Mr. Hisey was a new hand, and asked me to be there to help him.

Q. You say Coy came to you in the ante-room and said that the candidate for criminal judge was behind?

A. Yes, sir.

Q. What time of day was that in reference to the organization of the board of canvassers?

A. The board had been organized for some time.

Q. Had you any intimation up to that time that the candidate for criminal judge was behind?

A. No, sir.

Q. And you say Coy asked you to help him out?

A. Yes, sir; he asked me to get the tally papers from Allen Hisey.

Q. What were the words used by Coy at the time?

A. He came to me and told me the candidate for criminal judge was behind, and needed some votes, and asked me to get the papers from Allen Hisey, inspector in my precinct, and help them out.

Q. What was it that Coy said?

A. Coy came to me and said that Albert Ayers, candidate for criminal judge, was behind, and asked me to get the papers from Allen Hisey and help him out.

Q. You knew at the time this conversation took place with Coy that this tally-sheet you are speaking of had been in the hands of the Republican judge, and you saw the Republican judge hand it over to Mr. Hisey?

A. Yes, sir.

Q. Coy knew it also?

A. Yes, sir; I think so.

Q. How long was it after you had this conversation with Mr. Coy until you saw Mr. Hisey and said anything to him concerning the election papers?

A. I went right to him and called him out from the circuit court-room. He was just inside the door.

Q. How long had you been acquainted with him?

A. I think my first acquaintance with him was when Mr. Kitz ran the first time.

Q. What language did you use when you spoke to him?

A. I think I asked him to let me have the returns to see that they were all right. I went back immediately to Mr. Coy with the papers. Coy was right at the door of the ante-room that leads into the main hall.

Q. Was Coy standing on the outside or inside?

A. He was standing, I think, just outside the door in the hall. I told him I had the papers.

Q. What followed?

A. He went east in the hall and I went with him—on the same floor and on the same side—went east. I understand it is room 59.

Q. How did you get into that room?

A. Mr. Coy took a key from his pocket and unlocked it.

Q. Did any person come in the room before you had got through making any changes you made on the tally-sheet?

A. Yes, sir; Mr. Coy went out before I got through. Somebody knocked at the door and Mr. Reardon and Mr. Flynn came in.

Q. How far had you proceeded in your business of changing the tally-sheet when Mr. Coy went out?

A. I could not say just how far, but I had not completed it when he got back.

Q. When Coy came back did any one come with him?

A. No, sir.

Q. Did you say Mr. Flynn was one of the election inspectors?

A. Yes, sir; I think he was. He had his papers with him. He was from the Twenty-fifth ward.

Q. Did Reardon come into the room at all?

A. He came in, ushered Mr. Flynn in, and went out.

Q. Who was the next person who came?

A. Mr. Coy came back after Reardon went out. Then Coy, Flynn and myself were in the room. Coy remained there until after I had gone. Others came in in the meantime. I don't remember when Flynn went out. He was in the room while I was engaged in changing the tally-sheets.

Q. Did you and he speak together in reference to what you were doing?

A. No, sir; not a word; he was reading.

Q. What was he reading?

A. I don't know—a paper of some kind. Nobody else came in until Mr. Mattler came.

Q. Did you have any conversation with Mr. Mattler?

A. I don't remember what was said. Either he or Coy gave me Mr. Mattler's tally-sheet.

Q. Did you receive Mr. Mattler's papers?

A. Yes, sir; but I don't remember whether from him or from Coy.

Q. Was Coy present when you received the papers?

A. Yes, sir.

Q. He and Mr. Coy both had knowledge when you changed the Mattler papers?

A. Yes, sir.

Q. So you changed these two sets of tally-papers in that room, at that time, and did not come out of that room during that changing?

A. No, sir.

Q. And the papers you changed were those of the second and third precincts of the Thirteenth ward?

A. Yes, sir. Mattler had his overcoat on the table. He took it upon his arm, with the tally-papers under his overcoat, and went out.

Q. What is the fact as to when you gave the Hisey paper to Mr. Mattler, whether you saw it again that day?

A. I don't think I did.

Q. It was not returned to you by Mr. Mattler?

A. No, sir.

Q. Where was Mattler when you gave him the Hisey tally-paper?

A. In the hall, near the door of the ante-room of the circuit court, I think.

Q. You made no change of the certificates, and the changing of these two tally-sheets constituted the work you did.

A. Yes, sir.

Q. Why didn't you change the certificates?

A. The truth about it is, I supposed my writing might be recognized.

Q. You said something about Mr. Coy saying there was \$500 in it from the liquor league and might as well have it.

A. It was during the time these changes were being made. My recollection is that it took place after Coy came back to the room. I think Mr. Flynn was in the room when this conversation took place. He was paying no attention and was too far away to hear it.

Q. Who is Mr. Burton, who said, "Good God, this is no place for me?"

A. I think he was an inspector for the Twelfth ward.

Q. Who was in the room when he made that remark?

A. I think Mr. Mattler, Mr. Smith Myers and Mr. Coy.

Q. How long did Mr. Burton remain in the room?

A. A very little while. He walked up and down the room two or three times. I think Myers was in the room when Burton came in.

Q. Where did you go with Dr. Metcalf immediately after you had this acid conversation?

A. I went back to the court-house. I next saw Dr. Metcalf at the court-house. He said he had the acid in his pocket. He had two bottles—you used so much of each kind.

Q. Where did you go with these bottles?

A. We went to Dr. Metcalf's office in Masonic hall.

Q. How many squares from the court house is it to Dr. Metcalf's office?

A. It is four squares.

Q. Who went with you and Dr. Metcalf?

A. Nobody went with us.

Q. Did you have any tally-sheets with you?

A. No, sir.

Q. Do you know whether he had any?

A. No, sir.

Q. What time of day was it?

A. Along in the middle of the afternoon of Thursday on returning day.

Q. Was any clerk present?

A. He called in Mr. Berg.

Q. Did Mr. Berg see any of these experiments made?

A. He did.

Q. You experimented on an envelope?

A. Yes, sir. He looked at it. The Doctor said he would call him in, that he would be a pretty good hand, and he called him in.

Mr. Brown inquired as to Perkins' arrest, which the witness detailed, and his release from jail on New Year's eve upon a *habeas corpus* by Judge Gresham.

Mr. Brown: I want you to state the conversation that took place between Mr. Spaan and you in this office.

Witness: He wanted me to testify that I took the paper from Hisey, walked into the ante-room, looked at it, saw it was all right and handed it back. He impressed it upon me that people were walking in and out so that it was done publicly and not privately—that I merely looked at it and handed it back; that I was to bear out Mattler's conversation by saying that I took them into this room, looked them over, found them all right and handed them back.

The court then adjourned until 2 p. m.

At the afternoon session, witness Perkins again took the stand, and Mr. Brown continued his cross-examination. Much time was spent in trying to get Perkins to fix exactly the hour at which he went with Dr. Metcalf to his office. He thought it was after 3 o'clock in the afternoon, but could

not exactly say. The witness detailed how he counted out money in his own office to Mr. Spaan, who had called for it.

Question: When and where was it you asked Mr. Spaan if he didn't think they ought to pay your expenses?

Answer: I think it was in the marshal's office in this building. I said I ought to have back the \$50 I had paid him.

Q. In that conversation didn't he say they had been to considerable expense—had paid a certain firm of lawyers \$900?

A. He did say \$600 or \$900—that they had paid about \$800 in unusual expenditures about the State, influencing grand jurors at their homes; that it was easier to influence them at their homes than here; that their own people could bring things to bear upon them that could not be brought to bear here. The \$1,400 conversation was in February of this year.

Q. I understood you to say that Mr. Sullivan asked you to get the tally-sheet of the upper precinct of your ward?

A. Yes, sir, of Michael H. Farrell. The conversation took place in the canvassing-board room some time in the evening about 8 o'clock, while the board was in session. Nobody was present but Mr. Sullivan and myself. I can not tell you whether it was in the ante-room or in the judge's room. I asked him if he hadn't votes enough. He said, "Yes, but wanted some for his friends."

Q. You stated that Dr. Metcalf asked you if the Fourth ward was reached, and said when they reached it, it would be a dandy. When was that? What time?

A. That was late in the night. Mr. Sahm and others sat at a table. The Doctor leaned over and asked if the Fourth ward had been canvassed. I said it had not, and he said it would be a dandy when it was reached.

Mr. Brown here started in with a long list of questions, asking the witness if he testified to such and such things before the Marion county grand jury in relation to the tally-sheet conspiracy. The first half-dozen questions Perkins answered affirmatively, denying the others. The witness explained as follows: "An agreement was entered into between Major Mitchell and Captain Ritter respecting what questions should be asked and answered. I wrote out a statement, and was let off with testifying a little and was not asked anything else." He was then interrogated as to the circumstances under which he was now a witness for the government.

Q. You have then testified, and have assisted yourself out of the trouble?

A. I have told the truth. [Laughter about the court-room.]

Q. Mr. Ayers, the Democratic candidate for judge, resided in your ward and precinct?

A. Yes, sir.

Q. You were exceedingly anxious he should be elected?

A. No more so than others on the ticket.

Q. Was it not your occupation to become bondsman in the city and criminal courts?

A. I have become bondsman for Bernhamer, and have gone on bonds at the request of Sullivan and Tom Taggart.

Q. How much did they pay you?

A. Not a dollar.

Q. They were not of the criminal classes, on whose bonds you usually go?

A. You can judge of that yourself.

Mr. Brown, disturbed and angered by the laughter that followed this reply, appealed to the court.

The Court: The marshal will see to removing anybody who offends in this way. Remove him, and do not let him come back again during this trial.

Q. Were you not on the bond for two confidence men, and your desire to have Ayers elected was in the hope of setting aside the bond?

A. No, sir.

Q. You had no acquaintance with these men, but they had friends here who interceded for them. You got \$700 for doing so?

A. Not a cent.

Q. Didn't you receive \$700 for going on their bond?

A. I did not; not a dollar.

Q. Didn't you say to Smith Myers, in the post office of this city, that if the money was not made up to reimburse you you would do the boys up?

A. I did not. Smith Myers told me there was some money raised for me by Mr. McGinnis, upstairs, in the post office, and a short time after this he told me the money had been paid to Sullivan.

Mr. W. D. Bynum: Mr. Perkins, what time in the day did this conversation you have related occur between you and Mr. Beck?

A. It was some time shortly after dinner; just after I had taken Hisey's and Mattler's sheets in.

Q. After 1 o'clock?

A. Yes, sir, I think that it must have been. It was in the afternoon.

Q. Where were you standing?

A. Leaning against the railing in front of the ante-room of the circuit court.

Q. You had been out of the room some time?

A. Two or three minutes. Mattler had gone out before. Beck had a paper wrapped up under his coat. He didn't say what ward or precinct the tally-sheet was.

Q. Just said he had a tally-sheet there and wanted you to go and change it?

A. Yes, sir.

Q. That was the only conversation you had?

A. Yes, sir. He walked down right in front of me and went into the room. Smith Myers and Coy were in there when I came out.

Q. If they had come out and passed up the hall would you have seen them?

A. I think so.

Francis J. Mattler, attorney for Stephen Mattler, cross-examined the witness regarding points in testimony relating to his client, but evolved nothing new. He was re-examined by Mr. Claypool.

Question: I understood you to say in your examination-in-chief that you were present when Werbe took the tally-sheets of the second precinct, Thirteenth ward?

Answer: Yes, sir.

Q. State whether or not objections were made at that time, and if so, who made them?

A. There were several who made them. Hisey made objections and so did I. When the tally sheets—one set—were sealed up in the bag, Werbe said he was informed he was entitled to the other tally-sheet, and took out his circular. I said, "Hold on, let me show you what the law is," but he had taken the sheet and gone out the door with it.

Q. Did Coy state to you that Mattler had changed his purpose by scratching his own paper?

A. Yes, sir.

Q. Something has been said about you going on the bond of a couple of men designated as confidence men—who asked you to go on that bond?

A. Mr. Coy and others.

Allen Hisey was recalled and questioned by Mr. Sellers.

Question: You said that during a part of the afternoon—twenty or thirty minutes—your papers were out of your hands and you delivered them to Mr. Perkins. You will now state who returned the papers to you.

Answer: Stephen Mattler.

Q. What did you do when your precinct was called, if called that day, with reference to your tally-sheets when called to be counted?

A. I handed them up to the man who took them and opened them.

Q. Was that after or before they had been returned to you by Stephen Mattler?

A. It was after.

Q. State whether or not these papers were out of your possession from the time Mattler returned them to you until you handed them to the chairman?

A. No, sir.

Daniel Burton was called and was questioned by Mr. Sellers. He stated that he resided at No. 129 West New York street at the time of the November election in 1886. He was inspector of the south precinct of the Twelfth ward, and was a member of the canvassing board.

Question: State whether during that day, about noon or a little after noon, you were in a room east of the circuit court room in which there were at the time Mr. Perkins and others?

Answer: I accidentally happened into a room. I do not recollect seeing anybody there but Mr. Perkins and Mr. Coy. There were, perhaps, others in the room whose backs were to me, but I don't recollect who they were at this time. Perkins was sitting at a desk ten or fifteen feet away from the door. He was to the east of me. I don't know how far. He was leaning over, apparently writing. I do not think I remained there longer than a quarter of a minute.

Q. What induced you to go to that room?

A. I think somebody said Smith Myers wanted to see me, and directed me to that room.

Q. What remark did you make when you started to go out?

A. I don't recollect that I made any remark.

Q. Why did you go out?

A. Because the party I wanted to see was not there.

Question by Mr. Brown—Did you say, "Great God! this is no place for me?"

A. I did not.

Andrew Oehler, inspector of the first precinct of the Seventeenth ward, was called. His testimony was unimportant. The tally-sheets left by him, as he was sick, and which were afterwards returned to the board by William H. Corbaley, were altered. Mr. Corbaley was called and was questioned by Mr. Sellers. He said that he resided in the Vance block and was a Democratic judge of the first precinct of the Seventeenth ward. Mr. Oehler was inspector. He was present when the tally-paper and poll-list were signed after the completion of the vote. He did not know what papers were put into the bag. He knew after it was sealed up he helped carry the ballot-box.

Question: When did you again see the outside papers?

Answer: On the morning the returning board met in the circuit court room.

Q. What possession of them did you have?

A. I had possession of them from 11:30 o'clock in the forenoon until they were returned. Simeon Coy gave them to me; he was chairman of the Democratic county central committee.

Cross-examination by Mr. Brown: What papers was it that Coy handed to you?

A. Part of the returns of the precinct in which I served.

Here the tally-sheets of the precinct were shown to the witness.

Witness: I don't know that this is the same paper. I see my signature, but I don't know whether they were inside or not.

Mr. Brown: We will take them as the outside papers. There is no doubt about that, and if the outside papers they were the papers handed you by Mr. Coy?

A. Yes, sir.

Q. What time of day was it Mr. Coy handed the papers to you?

A. My best recollection is about half-past 11.

Q. Did you serve on the canvassing board that day?

A. Yes, sir.

Q. How came you to be there at the time Coy gave you the papers?

A. The Democratic committeeman of the Seventeenth ward happened to come to my office that morning and said I had better go and see Oehler and see if the returns were there. After he had been gone a while he came back, said Oehler was sick and wanted me to go and make the return.

Q. What did Coy say on the occasion of handing those papers to you?

A. Nothing except "Here's your papers." It was ten or fifteen feet west of the clerk's desk in the circuit court room.

Question by Mr. Sellers: You stated you took your place and acted as a member of the election board?

A. Yes, sir.

Q. How long until these papers were called for by the chairman and acted upon by the board?

A. After 6 o'clock in the evening.

Q. Where were you in the meantime?

A. I was at the returning-board and back and forth to my office. I was sick. I placed the papers upon a table in my office and lay down in a back room. They were not to my knowledge out of my possession. I was sick at my stomach and lay down to sleep. I lay down once in the forenoon and once in the afternoon.

Q. These papers were not changed, then, to your knowledge?

A. No, sir.

Q. What is your business?

A. I am a claim agent.

James M. South was called. He was the Republican judge of the first precinct of the Seventeenth ward, of which Mr. Oehler was inspector and Mr. Corbaley Democratic judge. He examined the tally-sheets presented him and noticed evidences of erasures and additions.

CHAPTER IV.

I HAVE introduced in the previous chapter the testimony of Samuel E. Perkins as it appeared in the *Indianapolis Journal*, July 22, 1887. This man Perkins, having confessed himself the tally-sheet mutilator and forger, was played by the Government for the purpose of convicting others for a crime which Perkins confessed he had perpetrated. If the purpose had been to punish the guilty, the way was plain, the Government had its man. He had plead guilty. But, as in all purely partisan trials, the purpose was not to punish the guilty, but to impose penalties upon citizens because they were Democrats, because they had been influential in defeating the schemes of Republican politicians, who had sought by base, illegal practices to defeat the will of the people as expressed at the polls. The partisan character of the trial became more and more apparent as it proceeded, until all fair-minded men were overwhelmed in disgust. With Perkins as a witness, no man was safe. The managers had only to indicate the work they wanted him to do—had only to intimate how they wanted him to swear—and he was as obedient as a ship to its rudder.

On July 23d the court resumed its sessions, and the first witness examined was Daniel M. Ransdell, who was examined by District Attorney Sellers as follows:

Question: What conversation had you with Simeon Coy on the 3d day of November, 1886, with reference to his directing any gentleman to intercept

the inspectors on their way to the court house and give them instructions with reference to the depositing of their tally-sheets?

Answer: I was in my office on the 3d of November and was sent for by General Carnahan to come to the rooms of the Republican county central committee. I went over and found a number of gentlemen in consultation.

Q. State what you did with reference to finding Coy and the conversation with him?

A. General Carnahan, Mr. Elam and myself went to Coy's room. I think I was the spokesman. I introduced the object of our visit. I told him we had heard that he was intercepting the inspectors as they went to the county clerk's office and directing them to bring their election papers to his room instead of taking them to the county clerk. His reply was—he laughed and said: "Gentlemen, I am no chump. We have you beaten, and it is not necessary for us to resort to anything of that kind." He said he had not directed anybody to bring their tally-sheets to him, but found there was a misapprehension, and sent a man to intercept inspectors at the court house to inform them that the law did not require them to return the papers until Thursday morning at 10 o'clock.

Cross-examined by Mr. Brown—This conversation, I think you said, took place on the 3d of November.

A. Yes, sir; on Wednesday. I found Coy at his private rooms at the Grand Hotel. I believe the visit was after dinner, shortly after noon.

The testimony of Ransdell was of little consequence, except as indicating a purpose to find something with which to back up Perkins, and this was of such frequent occurrence as to become monotonous.

Following Ransdell, James L. Wensley was brought forward, and testified as follows:

Question: In what capacity did you serve on the election board at the election held on November 2, 1886?

Answer: I was Republican judge of the first precinct, Twenty-third ward. [Examining the papers handed to him.] I made out this one.

Q. Examine the tally-sheet and certificate and state whether there are indications of changes.

A. There are on tally-sheet indications of changes on the vote of Theodore A. Wagner, William Irvin, Sidney Conger and John L. Griffiths. [Witness showed where additions had been made to the votes for other candidates.] There is a change there in the vote of Theodore A. Wagner. The word twenty has been changed; Sidney Conger, the word fifteen has been changed; John L. Griffiths, the word fifteen is changed; William Irvin is changed. There is a change in Albert F. Ayers, James J. Walsh, and William Hugo.

Q. Were you present when these papers were signed and completed?

A. I was there. They were delivered to Lorenz Schmidt, the inspector.

Q. When were they delivered?

A. Immediately after their completion.

Q. Were any erasures made prior to the time of delivery to Mr. Schmidt?

A. There was not, from beginning to end.

Q. State the color of the paper at the places where the changes have been made.

Attorney McNutt: I submit that may be left to the jury.

The Court: Perhaps some of the jury may be color blind.

Mr. McNutt: I withdraw the objection.

Witness: [Examining the spots where the acid was used.] It has a yellowish appearance.

Q. Are you acquainted with the effect produced by acid upon paper?

A. I am not.

Mr. Wensley's testimony naturally led to the introduction of Lorenz Schmidt, who was examined with the following result:

Question: When did you obtain possession of those papers?

Answer: As soon as the count was completed. They remained in my possession until I turned them over at the canvassing board to a man I thought was a good friend and a man—

Mr. Brown, hastily: Never mind what you thought.

Mr. Sellers, continuing: What time was that?

A. About half-past 5 o'clock.

Q. State whether or not those papers indicate that changes have been made?

A. They do.

Q. Were any of those changes made while in your possession?

A. They were not made while in my possession.

Q. State to the judge and jury under what circumstances they went out of your possession on the day of the meeting of the canvassing board.

A. I had promised a friend of mine to attend and help to organize a building association. I wanted to make good my word, and by turning these papers over to somebody, getting them out of my hand, I hadn't given a second thought—

The Court: You don't need to give your reason. Tell what occurred.

Witness: I gave them out of my hands to John E. Sullivan, the elected county clerk.

Q. State what occurred between you and Sullivan or any other person at that time.

A. I came to the circuit court room, and the first one I spoke to was John E. Sullivan. He sat not very far from the door. I congratulated him on his election, and asked him how far they had proceeded in the canvass. He told me as far as the Fourteenth or Fifteenth ward, I think. I said, "at

that rate I suppose I will not be called until 9 or 10 o'clock." I told him I had promised a friend to be at a certain place, and wanted, if I could, to leave the papers with somebody, so they could be handed in without delay. I didn't know at the time I had to be there in person. I gave them to him. As soon as he got them in his hand he called a man, George, and introduced him to me as his most intimate friend, and turned the papers over to him. He said that if he was not there that George Budd would be there without fail. Then I went on towards the east, and met Albert Sahm. I congratulated him and told him——

The Court: It is immaterial what you told him, unless one of the defendants was present.

Q. Where did you go from there, and how long did you remain away from the canvassing board?

A. I went to supper first and then went to the meeting, at the corner of Merrill and Illinois streets. I was back at the canvassing board about 9 o'clock. When I came up the stairway somebody told me my precinct had been called. I hurried up and went into the ante-room. George Budd came to me, unbuttoned his overcoat, and gave me a paper rolled up and said: "You must say they have not been out of my hands." I said "all right," having no idea they were changed.

Q. What did you do?

A. A second or so afterward the second precinct was through with the count and they called the third. I gave notice I was present and my precinct was taken up. I handed my papers up to Mr. Bernhamer. At first I paid little attention to the reading until I heard a figure I didn't think was right. Then I looked at the paper and saw the erasures. I knew there were no erasures on my papers: Then for a moment I was very much embarrassed. I at once asked the chairman to halt. There seemed to be an error here——seemed to be a mistake, and I asked for the other tally-sheet, the one sealed up in the bag, to compare with it. I protested at least three times, but was ruled out, and they went on in a hurry as fast as they could. My protesting did not do a bit of good. I called the attention of the parties present that there was something wrong. I thought they could not help getting the other sheet out of the bag and rectifying the mistake.

Q. In what tone of voice did you make these protests?

A. In a usual gentle tone.

Q. How far from the chairman were you at that time?

A. About as far as I am now [looking at Bernhamer, who was sitting about ten feet away.]

Q. Did Bernhamer say anything.

A. He said, "Mr. Schmidt, I am sorry I can not please you, the board has made the rule," and on they went.

Q. What motion had you made—that your sealed bag be sent for?

A. That is what I said.

Q. Was it seconded?

A. No, sir. Mr. Christian got up and said that the matter had been settled before.

Q. What was said to you by Mr. Spaan at that time?

A. I saw there was no use for me staying there. I stepped down—I tried to explain to him—Mr. Spaan told me in connection with that to be quiet, that the Journal reporter was there and it would come to the public. I got no satisfaction whatever.

Q. What conversation with Bernhamer did you have after this?

A. I went home that night thoroughly disgusted, and was determined to go next morning and try once more to get the tally-sheet from the bag and have it rectified. I saw Bernhamer and Sullivan about 9 o'clock next morning. I saw Mr. Sahn, Mr. Hiram Miller, Mr. Daniel Monninger, and several others, and told them I must insist upon having the tally-sheet taken from the bag and having the matter rectified; that I would not stand it.

Q. What did Bernhamer say, and Mr. Sullivan?

A. Bernhamer said he could not do anything, the canvassing-board had decided it.

Q. What did Sullivan say?

A. He said I never gave him any papers; that I gave them directly to the other fellow.

Mr. Claypool: There will be no objection made that this is Budd, the defendant, and who is now acting as deputy clerk for Sullivan?

Mr. Brown: No, sir, none at all.

Mr. Schmidt was cross-examined by Jason B. Brown, but nothing of importance was elicited. It now became necessary for the jury to know something about acids, and to help them on this point, Prof. John B. Hurty testified as follows:

Question: Are you acquainted with the effect produced by acids or chemicals upon paper?

Answer: Yes, sir.

Q. You may examine that paper (the tally-sheet of Lorenz Schmidt's precinct) and state whether or not it presents the appearance of there having been acid used upon it?

A. To tell you the truth, I do not like to deliver an opinion on merely looking at a thing. I should like to look at it with a microscope. But I will say it has been acted upon by some corrosive chemical; it may have been an acid or it may have been an alkali. Without tests I can not say.

Q. You now say by the use of chemicals?

A. I should say it presents that appearance (putting his tongue to the paper). It still has an acid taste. A chemical test or two would prove that absolutely.

Mr. Sellers: I will ask you to exhibit it to the jury, and that the witness be allowed to take this particular paper and make a test of it.

The Court: Could you make the test here as well as at your laboratory?

Prof. Hurty: Yes, sir; if I had the re-agents here.

The Court: You could bring them here very easily?

The Witness: Yes, sir.

The professor's lecture on chemistry was short, and at its conclusion Joseph Becker, Democratic inspector of the second precinct of the Eleventh ward, was placed upon the witness stand:

Question: Who returned to the clerk of the circuit court the returns of your precinct?

Answer: I returned them myself next morning after election, at 10 or 11 o'clock. There were two gentlemen stopped me on my way going to the court house, one at the corner of Pennsylvania street—I didn't know him—and at the corner of Delaware and Washington street by William Eden. They call him "Goose" Eden. He asked me where I wanted to go with the papers. I told him that was my business. He said, "You don't need to take them yet to the court house." I said he did not need to bother me. He said, "Mr. Coy said to have them brought to him." I said not to interfere with me at all, and he followed me clear to the court house.

Mr. Becker having retired, Mr. John B. Elam was introduced, and was examined by Mr. Sellers. Mr. Elam's testimony related to his experience during the proceedings of the canvassing-board, and continued as follows:

Mr. Sellers: You will proceed.

Mr. Elam: It began with the First ward, as I stated, and the first question that arose was in the first precinct of that ward, where there was a discrepancy between the poll-book and tally-sheet. Mr. Rollins, Republican candidate for county clerk, had five more votes on the poll-book than on the tally-sheet. Mr. Bernhamer decided that where there was a contest of that kind the tally-sheet should be followed and not the poll-book. The count then went on without special incident until the second precinct of the Fourth ward was called, and when the papers of that precinct were handed in by Mr. Counselman, the inspector, there was some informality in the certificate. It was not stated what it was, perhaps the absence of the certificate, and Mr. Bernhamer said they would pass the precinct for the present and go on with another. He took those papers—the poll-book and tally-sheet—and handed them back to Mr. Counselman, or some one who stood there. At any rate he put them aside, and matters went on without further incident, the board adjourning or taking a short recess for dinner. I got a lunch and went back at 1 o'clock and remained. They were going on with the Fifth, Sixth and

Seventh wards—in that order—nothing arising. There were a number of gentlemen there with tables of votes cast in each precinct, made up from returns sent to the committee-rooms, and as the count went on they were watching the vote. Several of them were Republicans. We thought we had a pretty accurate vote. I went to my office and remained there until about 5 o'clock, when I was sent for again and went over and saw Judge Irvin, candidate for criminal judge. I was asked by him to remain there for him and look after the count. Very soon after the Thirteenth ward was reached and I believe in the second precinct of that ward a change from the vote we had on our tables appeared in the vote of criminal judge, by which Ayers, the Democratic candidate, had his vote increased sixteen votes, and Irvin, the Republican candidate, had his reduced the same number from the vote as we had it. Mr. Morrison, an inspector, called attention to the fact at once, and asked to see the tally-sheet. He looked, and invited the inspectors to look at it. They did so, and a number not inspectors looked at it, myself among the number, and there was considerable discussion about it. Mr. Morrison moved that they send to the county clerk's office below and bring up the duplicate on file there and see what the vote was. His motion was decided out of order by the chairman, Mr. Bernhamer. It was stated by Mr. Bernhamer, perhaps by Mr. Spaan also, that the board only had the right to use the outside papers. Others said that they had sent down before in a couple of instances during the day. In Mr. Lander's precinct they did send down and made the counts from the bag, but when the Thirteenth ward came up the ruling of Mr. Bernhamer was otherwise, and they counted the vote giving Ayers sixteen votes more than we thought he ought to have, and Irvin sixteen less. The erasures could be seen easy enough, and the ink where the tallies had been added was not of the same color, but of a lighter shade, showing that it had been done two or three hours—perhaps not so long. Some members of the board protested against counting the changed vote, but it was counted, Mr. Bernhamer declining to hear anything on the subject. That matter was passed. Soon after that they stopped for a short time and went out for the evening lunch. Coming back, after supper, the count was resumed. It went on without incident until they reached the Seventeenth ward, in one precinct of which there was a change in the vote for criminal judge, I believe six votes being taken from the Republican and given to the Democrat, making a change of twelve. I looked at it carefully and it presented much the appearance of that of the precinct of the Thirteenth ward. They passed on until the Eighteenth ward was reached, and in one precinct of that ward—I think the second—there was a change of eleven votes on criminal judge, made in precisely the same way. The votes added to the Democrat were not the same as those taken from the Republican, but made a change of eleven. The count was then continued until Lorenz Schmidt's precinct, the first precinct of the Twenty-third ward was reached, when Mr. Schmidt stepped up and unrolled his papers. Mr. Many, who was sitting beside the chairman, unrolled the tally-sheet before him. He

was, I think, calling off the vote. He called through the State ticket and county ticket until he came to the vote of criminal judge, I think,—but I am not certain of the order—when Mr. Schmidt objected to one of the votes called, saying he thought a mistake existed there or something of that sort. I went up, as did some others, and took the tally-sheet and found it had been changed with reference to criminal judges—fifteen or sixteen votes changed from one to another, and also that there was a change in the vote of coroner, something more than twenty votes being taken from the Republican candidate and given to the Democratic; also, a change in members of the legislature by which Mr. Griffiths lost a number of votes, which were added to Mr. Hugo, a Democratic candidate. The changes were easily seen and acid had been used, the removal of tallies not being simply made by erasure. The lower sheet, which had been lying underneath, containing the Democratic candidates, had been injured somewhat by the acid going through. There was a good deal of excitement, Mr. Schmidt vehemently protesting that the tally-sheet and poll-book should be brought from the clerk's office below. The chair ruled as before and they were not brought. A number of Democrats as well as Republicans insisted it should be done. Mr. Schmidt was not listened to, his protest was unheeded and the vote was counted as changed. We passed on from that ward without any further incident of note until along toward morning, probably 3 o'clock, when they reached the end of the count, the last precinct called being a precinct of Wayne township, of which Hiram Miller was inspector. They waited some time and sent somebody for him. Somebody said, while waiting, that they might count the second precinct of the Fourth ward, which had been passed. Mr. Counselman came forward, handed up his tally-sheet and poll-book and the count proceeded. They counted along as we thought they ought, agreeing with our tables until criminal judge was reached, when there appeared a change of twenty-one votes—forty-two in all—twenty-one taken from the Republican and given to the Democrat. There was then more clamor and noise than at any time, as I remember. Dr. Wagner got upon the table and spoke. There were cries of "Cincinnati" and "Chicago," and a good deal of noise. I saw the erasures and changes, and they were about as in the other cases. Counselman was standing there, near the president's desk, and I asked him where those papers had been since the close of the election board. He said he gave them to Mr. Davis, as I remember, the Republican judge, and that he had returned them to him [Counselman]. My next question was where they had been since that time. Mr. Spain, who was standing near, said he needn't answer any questions, and he did not. Then the fourth precinct of Wayne township came in, and that ended the count. I might say that at the time of the excitement and talk about the changes Mr. Coy was in the room, and part of the time during the count coming in and out, and I think at the time the Fourth-ward matter came up, towards morning, I noticed him there about the railing in the space where the judge sits and in the judge's room. Judge Walker and Judge Howe were there, and some

other Republicans, who were complaining, and Coy said, "It isn't a thing you ought to squeal about; we are getting even with you." Somebody said nothing like that had been done on the other side. That is all I remember to have heard said. The ink on the Fourth-ward tally-sheet was fresh ink. It was dry, but the color was not set. It was at that time easy to distinguish in the line of tallies where the old tallies left off and the new ones began. I do not recollect anything that Bernhamer said except that the sheets must be used, that the count must be made from them.

Q. Relate the manner in which the reading and counting was done.

A. The inspector, or judge acting in his place, came forward with poll-book and tally-sheet, took his place on the right of the presiding officer. Mr. Many sat near the presiding officer, and when the tally-sheet was handed to the presiding officer—it was usually handed to Bernhamer—he took it and unrolled it. Bernhamer most of the time called out the vote, but Mr. Many watched the tally-sheet, to see that they corresponded. The count was made all the way through from the tally-sheets that were so produced.

Q. What was Counselman's condition on that day and night?

A. I do not know that I can say exactly. He stood there in a stupid sort of way, his face more flushed than usual. His conduct impressed me at the time as peculiar, but I was not able to determine whether he was badly scared or drunk. I did not see him walk, and could not tell whether he could walk straight or not, and did not hear him talk much. I had no good means of knowing his condition, but there was, I think, something the matter with him. I could not tell whether he was drunk or badly frightened.

Cross-examined by Jason B. Brown: I want to call your attention first to the meetings that took place on the part of yourself, Mr. Ransdell, and General Carnahan. You three gentlemen were, I think, at the Republican headquarters of the county?

A. There is where we started from at the Bates block, almost across the street from this place. General Carnahan was chairman of the Republican county committee, and we were members of that party.

Q. You had received information that Coy was giving directions in regard to the outside tally-sheets?

A. We had heard just what Mr. Becker testified to here.

Q. Did Coy say he was no chump?

A. Yes, he said that.

Q. Didn't he say, "We have beaten you and there is no use to resort to any such methods?"

A. I think he said, "We have got enough votes, anyhow."

Q. You testified that in the Landers case they went to the bag and got the tally-paper?

A. Yes, sir; they did.

Q. Do you remember the number of members the board consists of?

A. There were eighty-eight precincts in the county, and consequently the board consisted of that number of members. They were not all in attend-

ance at the same time. There were outsiders also there, and the crowd was pretty large at some times. The tables used were not official returns, but were semi-official. They were reports from the papers and the committee had asked reports from the different precincts. There was a circular sent out by General Carnahan that I saw. I did not prepare it, but looked it over. My name was not attached to it. I did not see anything objectionable in it.

Mr. Brown: You and I might disagree as to whether there was anything objectionable in it.

At the conclusion of Mr. Elam's testimony, Prof. Hurty was recalled to complete his testimony on chemicals, and to show the jury the effect of acids on tally-sheets. His testimony was as follows:

Question: State whether or not you have made a chemical test upon these papers to determine whether or not acid has been used?

Answer: I have just completed the chemical test. There is abundant evidence of acid now upon the paper.

Q. Are you able to give an opinion as to whether or not it was used upon this paper at a recent date or some time last November?

A. I can not say as to any time, more or less, but acid will expend itself, and no longer be detected. Such a time has not elapsed in this case.

Q. How long a time would probably be necessary where papers have been kept in a vault or safe?

A. It would require a good many months, in my judgment, but in time it would be obliterated.

Q. What test did you make?

A. I applied the blue-litmus paper test, which will always turn red in the presence of an acid.

Q. Did it turn red in this case?

A. Yes, sir. I also applied the barium test, and the result was a fine granular precipitation.

Q. What kind of acid was used?

A. Sulphurous or sulphuric. Sulphurous becomes sulphuric. I know sulphuric is there now.

The testimony of Prof. Hurty appeared satisfactory. After this, John L. Griffiths was called. He went over about the same ground that Mr. Elam had plowed and harrowed, with this addition, the witness had requested Mr. Bernhamer to make a comparison, the duplicate tally-sheet to be produced, so that a comparison could be made. Mr. Bernhamer refused.

Question : What did he say ?

Answer : He said I ought not to talk ; that I was not a member of the board and had no right to say anything. I told him that I would talk, whether a member of the board or not. He said things just as bad as this had been done before, or something to that effect.

Mr. Brown : The vote was a little close in your case ?

Witness : Well, I had 312 majority after 110 had been stolen.

William H. Morrison, who was the Republican inspector of the first precinct of the Eleventh ward, was introduced as a witness, and detailed the proceedings of the canvassing-board and the rulings of Bernhamer, as its chairman. It was about the story told by Elam and Griffiths, and is not sufficiently important to be reproduced.

He was followed by George W. Shafer, who testified that Coy and Spaan, on the night of November 4, 1886, while the canvass of the vote was going on, entered room 59 of the court-house, and that Coy had a paper in his hand that looked about as long as a tally-sheet. Shafer was cross-examined by Jason B. Brown.

Question : What is your business ?

Answer : I am a barber.

Q. You usually work around the polls on election day ?

A. Yes, sir.

Q. You don't have any particular choice of parties, you usually work for the one that pays you the most money ?

A. I generally get pay for my work.

This purifying testimony was followed by that of Henry Bottoms, a colored man who worked in the court-house. He testified as to the condition of the curtains of room 59. Cross-examined by Mr. Brown :

Question : That was a sort of public room, was it not ?

Answer : No, sir.

Q. Didn't Mr. Coy often get the key of you to go in that room ?

A. No, sir ; nobody ever got that key of me ?

Q. You are sure he never got it of you that day ?

A. Yes, sir ; I am sure.

Following the colored man, Dr. Theodore Wagner was introduced, and testified as follows :

Question: Were you present at night?

Answer: Yes, sir; that is the only time I was present. I went there after 7 o'clock and remained until 6 o'clock in the morning, with the exception of a short interval of about fifteen minutes. I saw Mr. Spaan and Mr. Coy go into room 59, about half-past 1 o'clock at night, or maybe a little later.

Q. What occurred?

A. I saw them go into the room and I went up past the room in regular step. I saw there was a light in the room and I passed around the stairway and from there quietly stepped up in my stocking feet to the door, and looked through the curtain into that room. In the room was a large table, about the center. At that table was Mr. Coy sitting, his back to me, Mr. Spaan standing alongside of him. Coy was leaning over the table with something in front of him. What he was doing I could not tell. I remained there probably a few seconds. I went back and called the attention of several gentlemen to the fact that they were in the room. Mr. Wilkins, of the *Journal*, was one. I don't think I spoke directly to Mr. Dennis, of the *Journal*, but I spoke in his presence, and called attention to the fact that they were in the room, and to look out for the next precinct.

Mr. Brown: Well, never mind about that. [Laughter.]

Mr. Brown: You don't think those gentlemen were in there examining that pamphlet about the election laws?

Witness: They were not looking at the pamphlet when I saw them.

Question: You looked in or eave-dropped to find out what was going on?

Answer: Yes, sir, that's it exactly. Mr. Coy had something that looked like a paper before him. Mr. Spaan had a pamphlet in his hands.

Charles Dennis, reporter for the Indianapolis *Journal*, was the next witness, and he testified that he went from the *Journal* office to the circuit court-room on Friday morning, November 5th, and testified to seeing Coy and Spaan come out of room 59, and detailed a jocular conversation he had with Coy on the outside, in the presence of Mr. Wilkins, also of the *Journal*.

Following Mr. Dennis, came Austin F. Bradley, who testified to an acquaintance with John H. Counselman, and said he met him at 10 o'clock on the night of Thursday, November 4th, with several other persons, and that Counselman had his tally-sheets with him, and that they all went to a saloon and got a drink. Counselman remarked that he had given his papers to Bernhamer, but they did not suit him. A man by the name of Cook said "we are going to

fix them up." Bradley was cross-examined by Mr. Brown. "This was all said in a jocular manner, and while you were taking a drink?" "Yes, they were all laughing about it."

Wm. H. Nickerson was the next witness, whose story was about the same as that told by Bradley. This closed the day's proceedings, and the court adjourned, but only for the night.

Early the next morning the judicial mill was set in motion by Judge Woods for another day of grinding. The first witness to take the stand was Charles Many, who began his testimony by saying: "I was selected by Mr. Bernhamer to assist in the canvass of the election returns on the 4th of November, 1886," and his testimony was similar to that of John B. Elam's. On cross-examination Captain Many said: "I am the Republican township trustee for Center township, Marion county, Indiana, and was called to the stand by Mr. Bernhamer to assist him in canvassing the vote of the various precincts in Marion county." Mr. Many stated that during the call a discrepancy in the vote for county clerk was found on the tally-sheet of one of the First ward precincts. It was then decided to take the figures from the poll-book. He did not remember of anything being said to the effect that the tally-sheet should be the guide. When changes were discovered on the sheet from the second precinct of the Thirteenth ward he gave strict attention to the tally-sheets that came after as he did to those before. The next sheet taken up was that of Mattler, inspector of the third precinct of the Thirteenth ward, and he noticed no alterations on it. He was present during the whole time of the canvass, but did not notice alterations on the sheet of the sixth precinct, Center township. When shown the changed figures and tallies by the attorney he said they were plain, and he thought he would have observed them when the sheet came into his hand. When the alterations were first noticed, Mr. Spaan came to his right hand, and the witness, pointing to the Hisey sheet,

said to him, "Does not that look like an erasure?" Spaan replied, "Yes, it does seem to have been erased." There was a great deal of confusion and excitement at the time. On re-direct questioning, the witness said that when there was a dispute as to the certificates, Bernhamer came down and read from the tally-sheet lying in front of the witness. The objections made on these occasions came from Mr. Morrison, a Republican inspector. Bernhamer read from the poll-book of the Mattler precinct. Witness did not remember much concerning the sixth precinct of Center township. After examining the poll-books of both precincts, presented to him by the district attorney, Captain Many said he could detect no change on either.

The next witness examined was Dr. Frank A. Morrison, the Democratic candidate for coroner at the November election, 1886. His testimony was as follows:

Question: State whether or not you were at the meeting of the board of canvassers?

Answer: Yes, sir.

Q. You may state what is the fact about your attention having been called by Dr. Wagner to changes and erasures in the tally-sheets as they were being counted and estimated by the board?

A. I did not see them. He told me they were there. He said erasures had been made on those tally-sheets.

Q. Was that conversation public or private?

A. It was private.

The Court: Then it is not admissible.

The Witness [resuming]: I was present at the board probably two hours at a time on five or six occasions. I was present when objections were made to the counting of the vote, because votes had been changed and altered. These objections were made publicly before the board.

Q. State what is the fact about your having received a commission as coroner of Marion county, from the governor?

Attorney McNutt: We object.

The Court: What do you wish to prove by this?

Mr. Sellers: That he received his commission and refused to accept it or serve because of his knowledge of erasures and changes in the tally-sheets.

The Court: That is not material to this case.

Following Dr. Morrison, George W. Stubbs, attorney-at-law, was examined and testified as follows:

Question: Are you acquainted with W. F. A. Bernhamer?

Answer: Yes, sir.

Q. How long have you known him?

A. About all the time I have lived in this city.

Q. Were you present at the board of canvassers?

A. I was present.

Q. What conversation occurred between you and Mr. Bernhamer with reference to changes, erasures or additions to tally-sheets being canvassed by that board of canvassers?

Mr. McNutt: We object on the ground that there is no time fixed when this conversation occurred.

The Court: If it was after the transactions all occurred it would be admissible only as against himself.

Mr. Sellers: I will fix the time. Did the conversation occur on that day or not?

Witness: Yes, sir. I had some conversation with Mr. Bernhamer. It was in the evening of the day the canvassing board was in session—as I now remember about half-past 5 o'clock in the evening, perhaps a little bit later. The board had taken a recess for lunch or supper, but had not formally adjourned. Captain McHugh one of the inspectors, was called to the chair. After I got my lunch and started back to the court-room I met Bernhamer, who was also going to the court room. I fell in with him on Washington street, near the corner of Pennsylvania, and walked with him until we got into the court-room. I said to him that it was clear to me from what had taken place that there was an organized scheme to perpetrate a fraud, and appealed to him, as chairman of the board, to see that justice was done. I said that he, as chairman of the board, ought to see that there was a fair count. Mr. Bernhamer said at first that he didn't know there was any fraud being perpetrated. I told him it was clear these tally-sheets had been changed and he ought not to allow himself to be used in that manner. I was there in the interest of Mr. Rollins, but I felt more interest than that. I felt that it was an attack on my personal rights. He said the Republicans ought not to complain if they had to take some of their own medicine. I told him I didn't know about that, but that he would hear it thunder. We entered the ante-room of the court-room and Bernhamer took off his overcoat. I made an appeal to him that he see that justice be done; that he send for the sealed bags and not allow those forged papers to be used. He said Republicans ought not to grumble. He said that he had been counted out once himself when he was a candidate for councilman, or alderman, I think he said, and that he had been wrongfully counted out and Republicans ought not to complain.

Cross-examination by Mr. Brown: Bernhamer said Republicans ought not to grumble if they had to take some of their own medicine. Did he refer to conduct of Republicans of that kind in the past?

Witness: I don't know to what he referred. I do not know of any con-

duct of that kind on the part of Republicans in this city. Mr. Bernhamer acted as the returning-board. He would not listen to any suggestions from anybody when motions were made.

John W. Bowlus was the next witness called upon, and he testified as follows :

Question : Were you present at the meeting of the board of canvassers on the 4th of November last ?

Answer : I was there a short time. I think I went there a little before 6 o'clock and remained until 7 or a little after.

Q. Did you see Mr. Sullivan ?

A. Yes, sir.

Q. Did you see Daniel Lemon ?

A. I could not say I saw him in the room, but I saw him on the court-house stairway. I saw a man with one leg shorter than the other who wore a stirrup. His name is Baker. Sullivan and Baker were in a corner near the book case in the judge's private room. They were talking very confidentially, which attracted my attention. I noticed Mr. Baker had a tally-sheet, or something like a tally-sheet—the same length—rolled up in his hand. They started out and I followed them. Baker went down the stairway leading down to the floor upon which the county offices are. I stayed at the top of the stairway. About midway he met Lemon coming up. Lemon went down with him. They went out the west end of the court-house on Delaware street, passed down Delaware to Washington, passed down the north side of Washington to Pennsylvania on the west side, crossed Washington to the south side and then west to Charles Lauer's saloon, which they entered.

Cross-examination by Mr. Brown :

Question : Where is this saloon ?

Answer : Between Meridian and Pennsylvania streets on the south side of Washington. The place is now run by Stephen Mattler.

Q. Who is Mr. Lemon ?

A. Daniel Lemon.

Q. He was elected sheriff.

A. No, sir ; he was the Democratic candidate.

Q. He never was counted in ?

A. No, sir ; he did not have the inspectors.

Following Mr. Bowlus, William Wilkins, a reporter on the *Journal*, took the stand and gave the following testimony :

Question : Are you acquainted with Simeon Coy ?

Answer : I am.

Q. Are you acquainted with Henry N. Spaan ?

A. I am.

Q. Were you present at the meeting of the canvassing board on the 4th of November, 1886?

A. I was.

Q. At what time did you go there?

A. Between 2 and half-past 2 in the afternoon and remained until 5 or a little after 5 o'clock.

Q. How long did you remain away after that time?

A. About an hour and a half, returning between half-past 6 and 7.

Q. Did you see Sullivan there when you returned?

A. I did.

Q. Where was he?

A. A good portion of the evening sitting in the rear of Bernhamer.

Q. Are you acquainted with George W. Budd?

A. I am.

Q. Was he in the room that evening?

A. I didn't see Mr. Budd, or I have no recollection of having seen him. I remained until the canvass was completed and they were making up the footing. I think it was half-past 4 or 5 o'clock. About half-past 1 my attention was called to room 59. I went down the hall, saw a light, and then returned. A few minutes afterward I met Mr. Dennis and requested him to go down the corridor with me. As we passed the room I said to Mr. Dennis that Coy and Spaan are in that room, and Mr. Dennis was desirous of stopping and taking the number of the room. I requested him to come on. In doing so he made some noise. We passed to the east side of the corridor and as we were turning to the north side Mr. Coy looked out of the room in my direction, then west, and went in again. We then passed along the north side to the alley or space between, and then across to the south side. Mr. Spaan was then coming out of the room. We met at the angle of this crossing and directly afterward Mr. Coy came out. I made some remark, I don't remember what it was, in reference to the returns, or what they were doing in the room. The conversation then came up in a general way about the canvass. Coy said they were in there looking at the election laws. Coy had a pamphlet in his hand. I saw the outside of the pamphlet.

Q. How long had they been in that room from the time your attention was called to their being there until they came out?

A. I presume twenty minutes.

Q. How is that court house heated?

A. By steam.

Q. How was Coy dressed that night?

A. He had on a heavy overcoat—a heavy brown beaver overcoat—a rough beaver.

Cross-examined by Mr. Brown: You say Coy had on a heavy overcoat?

A. Yes, sir.

Q. Did you ask what he and Spaan were doing in that room together?

A. I don't know that I asked them directly.

Q. Was anything asked about an election return?

A. Yes, sir; I asked Mr. Coy where the returns were.

Q. What did he say?

A. Mr. Coy indirectly denied having them.

Q. Did you examine Mr. Coy's clothing any way?

A. I opened his overcoat. I didn't find anything.

Q. Were any election papers about Mr. Spaan?

A. No, sir.

Re-examined by Mr. Sellers: What was the character of examination you made of Mr. Coy's clothing?

Witness: The examination I made was superficial—merely opened Mr. Coy's overcoat.

Mr. Brown: Didn't you also open his inside coat and feel in his vest pocket after cigars?

Witness: No, sir; that was on another occasion.

Q. Coy made no effort to prevent you?

A. No, sir.

Mr. Wilkins was cross-examined by Mr. Brown, as follows:

Question: You are well acquainted with Mr. Coy?

Answer: O, yes.

Q. When you were opening Coy's coat, you were looking for a cigar, were you not?

A. Yes.

Mr. Sellers [to the Court]: We rest, your Honor.

The court then took a recess until 2 o'clock P. M.

It is said that none are so blind as those who won't see, but I am of the opinion that none are so blind that they can't see in the foregoing testimony a partisan purpose from beginning to end. The perjuries of Perkins, like the main shaft in a mill, set all the little wheels agoing. Take out his perjuries and the whole superstructure collapses in an instant; and yet this shameful farce went forward from day to day under the eye of United States officials, who seemed to be so warped and blinded by partisan and personal animosities as to be totally disqualified for administering justice. Republicans had been repeatedly defeated in their strongholds; the plots of the Republican gang had been exposed and the people had set down upon their tricks and treacheries, and to get even, the man who had organ-

ized the opposing forces and blasted their prospects was to pay the penalty, provided he could be convicted regardless of ways and means. Truth, honor, justice were all discarded, and a self-convicted felon was utilized to supply the needed testimony.

CHAPTER V.

AS was shown in the previous chapter, the Government, having exhausted its witnesses, rested. When the district attorney said to the court, "we rest," the announcement elicited the sympathetic expression, "you do look tired." The show had been kept up for days, and after exhausting every means at its command to secure a triumph, the Government rested.

At 2 o'clock P. M. on the 22d day of July, 1887, witnesses for defense were sworn, and their examination was conducted by Judge McNutt and their cross-examination by Judge Claypool. It is needless to say that intense interest was aroused. The Government, having rested; showed signs of vitality.

William F. A. Bernhamer testified as follows:

Question: What position did you hold on the board of canvassers that canvassed the returns of the general election held in November, 1886?

Answer: I was inspector of my precinct and chairman of the board of canvassers. The first controversy that arose after I assumed the chair was in regard to who should act as clerk of the board. The statute was read, and County Clerk Moses G. McLain was told to take his place. He stated that he had appointed John W. Coons as deputy clerk for the occasion, Mr. McLain himself being disabled. To this choice objection was publicly raised by Hiram W. Miller, an inspector and member of the board. The objection was made that Coons was not a regular clerk. It was settled the clerk should act himself, or the board should appoint somebody to act. Mr. McLain then appointed Aurelius J. Joyce, one of his deputies, to which there was no objection, and Mr. Coons retired.

Q. In what order did you call the precincts in the wards and townships and under what order?

A. Under the order beginning with the city of Indianapolis, in Center township—Center township, ward 1, precinct 1, and I followed that order through the entire city; then the outside precincts of Center township in numerical order, and then the townships in alphabetical order, with precinct 4, Wayne township, the last.

The witness then went on to relate the occurrences of the day and night of the canvass, the counting of the vote of a precinct in the Sixth and one in the Tenth ward from the returns in the sealed bags. He explained that the various motions that he had put and carried were presented by members of the board and that he had not suggested any of them except those regarding meals. The first irregularity was in the third precinct of the First ward, where, on the tally-sheet, Thaddeus S. Rollins, Republican candidate for county clerk, had five or six more votes than the certificate gave him. A motion was then made that where such discrepancies occurred the tally-sheet only could be taken, and this motion carried unanimously. The next discrepancy was in the precinct of the Fourth ward, of which Counselman was inspector, which was passed for a time because the certificate had not been filled out. They did not have the signature of a single election officer thereto attached. There was no other dispute until the Hissey precinct, No. 2, of the Thirteenth ward, was reached. When Hissey's returns were given in and the perusal went on, the claim was made by some of the gentlemen keeping personal tally-sheets that it did not correspond with their figures. A dispute arose. John B. Elam asked permission on behalf of Judge Irvin to address the board. Permission was granted and Mr. Elam made an argument. He argued that it was the duty of the board, where the correctness of the returns was challenged, to go to the sealed bag in the clerk's office and make the return from that. Mr. Spaan, on behalf of Mr. Ayers, asked and was given permission to answer. He read from an election pamphlet, first citing the law and then the facts. He held that the board was to use the paper that was before them and no other. The board had already

decided to count from the tally-sheet and not from the sealed bag. The witness thought Captain McHugh made that motion. He did not originate it.

Q. Did Mr. Schmidt say anything to you in regard to the sealed bags in the clerk's office?

A. Yes, sir; I told him I had no power to send for the bag; that the board refused to change its rulings. I told him I was acting for the board and not for myself.

Q. He speaks of having seen you on the following morning?

A. He did. He came to me and wanted me to go down stairs and get the bag opened and see if the returns of his precinct were right. I told him the board alone could do that. I asked him who it was he had given his papers to. He said he would not tell; that he expected to find the man.

Q. After the Schmidt matter, what came next?

A. While messengers were gone for Hiram Miller and the No. 4 Wayne township returns, it was suggested to call Counselman's precinct. He was sitting there. Then Mr. Counselman was brought up. I say brought up because he was brought up to the desk and his tally-sheet and poll-book accepted. It was then said his certificate had not been filled, and somebody said that on that score we would have to throw out half the county, because others were in that condition. A dispute arose, the Republicans claiming that a change had been made, and Democrats said that "If it was done, you (the Republicans) did it." The precinct was counted and the returns laid aside. I think that must have occurred between 3 and 4 o'clock on Friday morning. That was next to the last—the last was Hiram Miller's precinct. There was no controversy about that.

Q. You spoke of Counselman being brought up from the corner?

A. Because he was not in a condition to come up by himself. He had for almost the whole night been sitting in a corner on the right hand side of the room in an apparently stupefied condition, with his tally-sheet sticking out of his coat. He was drunk.

The witness said he recollected a conversation between himself and George W. Stubbs, and denied every essential part in Mr. Stubbs' testimony. As to the remark about Republicans "taking their medicine," he said that occurred in a speech made at the canvassing-board by Samuel Dinin. Cross-examination by Mr. Claypool had no other effect than to make Bernhamer more strongly disclaim the various points in the testimony that had previously been brought out against him.

Mr. Bernhamer having retired, William F. Christian, who was the inspector of the second precinct of the Tenth ward, was introduced and said :

Question : Did you have any information from any quarter whatever, before the tally-sheet came before you, that there was any alteration in the tally-sheet, or any purpose to alter it ?

Answer : I did not.

Q. And they counted from that tally-sheet ?

A. Yes, sir.

Q. Was there any motion made at that time, or about that time ?

A. A point of order was made, while Mr. Spaan was on the floor, to confine the proceedings of the board to members of the board. It was made by Captain McHugh, and carried. There were eight tally-sheets in each precinct, four of which were put in the bag, and the other four from which the count was made. In each set there was one tally-sheet for each ticket—Republican, Democrat, Greenback and Prohibition. The next trouble after the Thirteenth ward was Mr. Lorenz Schmidt's precinct of the Twenty-third ward. One of the sheets was taken up by Captain Many, and one by myself. We counted first the Republican State ticket and got along on the county ticket until we reached some point where Mr. Schmidt made objection. He said he didn't believe it was right, wanted the bag sent for. I said the board had decided that, and that the bag could not be sent for. Some gentleman, I think W. H. Morrison, renewed the motion to send for the bag, when the point of order was again raised. About that time Dr. Wagner, Samuel Dinnin and Mr. Griffiths were all addressing the meeting. These were outsiders and it created a great turmoil. I should think that it was about 10 o'clock at night when Mr. Schmidt came in. I tried to get the gentlemen to sit down. Order was apparently restored while Mr. Morrison renewed his motion. I submitted the point of order to the board and the board sustained me.

Q. Had you any knowledge that the tally-sheets of Lorenz Schmidt's precinct had been tampered with ?

A. Not at all.

Q. I am talking about the time prior to the presentation of them ?

A. I had no knowledge.

Q. To whom did he claim to have given them ?

A. To a man who, he said, he thought was a good friend and an honest man.

Q. Did he tell his name ?

A. He did not.

After Mr. Christian had concluded, Captain McHugh was introduced, and said he was inspector of the second precinct of the Sixteenth ward, and testified to having offered

certain motions during the sitting of the canvassing-board. He said he was not aware that anybody had suggested any of them; perhaps one was written by Mr. Spaan.

Following Captain McHugh, William J. Craig, proprietor of the Indianapolis *Sentinel*, took the stand, and his testimony is summarized as follows: Mr. Craig said he went to the canvassing-board about 9:30 o'clock in the evening of Thursday, November 4th. He was sitting beside Mr. Spaan for some time in front of the judge's stand. Coy came and questioned Spaan as to what they would do if some of the inspectors should refuse to sign the returns. Spaan said he knew, but would prefer to examine the law more closely. He saw Spaan take a pamphlet containing election laws and sit down and talk a moment with Coy, looking at the pamphlet. Coy said: "Come to my room." Spaan said: "Where is your room?" Coy said: "Down east on the corridor." We passed out, said the witness. I went with them until they got nearly to the room. I went so near I saw what room they went in. It struck me it would not be very interesting to me, staying there while they were looking at the law and hunting it up, and I went back to where the counting was going on. I saw them afterward. Mr. Spaan came back into the court-room. It doesn't strike me they were gone long, fifteen or twenty minutes. It was Spaan who asked me to come along with them. I had been to lunch with him. It must have been 2 o'clock in the morning. I do not know the exact time, but in that neighborhood. I think I left just before 4 o'clock. I think Spaan first joined me about 11 o'clock. I remained with him continually from that time down to the time he went down the corridor to that room. After returning I don't remember that I was in his company. We went out to lunch together about 12 o'clock, to Schaffner's.

The court then adjourned until Monday morning at 9 o'clock.

On Monday morning, July 25th, the court resumed business, and Franklin Landers, who was the Democratic inspector of the second precinct of the Sixth ward, was the first witness to take the stand. Mr. Landers testified that the Republican judge of the precinct demanded of him one of the tally-sheets. He said at that time he thought the judge entitled to it, and therefore gave him the outside tally-sheet.

Mr. Allen Hisey was then recalled and questioned by Judge McNutt, as follows:

Q. I wish to call your attention to a statement that has been made concerning your testimony. Tell what Perkins said to you and what you said to him as to what you were to testify to?

A. I met Mr. Perkins on New York street, close to his own premises. He said he wanted to speak to me. I told him I was in a hurry, that I hadn't much time. He said: "I just wish to say to you that when you are called up to testify you can say you left those tally-sheets and papers in the little room." I told him I didn't think I could do that. I didn't tell him positively. He said: "I wish you to state, when you are called on, that you left them in the little room, in the ante-room or closet, instead of giving them to me." I told him I didn't think I could do that. I was in a hurry and passed on. I came down to see him next morning and he was not at home. The following morning I stopped to see him. It was early, and he came to the door in his night clothes. He asked what was the matter. I said: "I just stopped to let you know you can not expect anything but the truth of me in case I am called." That is about all that passed there to my knowledge. He simply remarked that was all right. I never made any suggestion to him as to what I would testify to. I told him I had been praying over the matter—over my own error in letting him have the tally-sheets. I had been praying over that several days—the error of letting the tally-sheets go out of my hands.

Following this, Bernhamer was recalled and questioned as follows:

Mr. Brown: When you said that you had been counted out, did you not make the statement in good faith?

A. I did.

At this juncture Albert F. Ayers was called. He stated that he was the Democratic candidate for judge of the criminal court November 2, 1886. Being examined by Judge McNutt, his testimony was as follows:

Question: I wish to call your attention to an event about which something has been said, that some time in the night of the 4th, or the early morning of the 5th of November, that Mr. Spaan and Mr. Coy left the room where the canvassing-board were sitting and went away to room 59. What did you observe in relation to that matter?

Answer: Some member of the canvassing-board—I think it was Joe Flack—had come to me and said something about inspectors not signing the returns. A few minutes afterward Spaan, Coy and some one else came along. I spoke to Spaan about it, and he said: "We are going to examine that now." It was in the after part of the night, I should say about 3 o'clock A. M.

Q. I wish to call your attention to Counselman; where was he?

A. I saw Counselman there. I didn't know him, only as told who he was. I saw him sitting in the northeast corner of the circuit court-room. He was there the greater part of the night.

Q. What was his condition?

A. He was intoxicated.

Q. Did you see any papers in his pocket?

A. Yes, sir; I saw some papers in his pocket. They looked like tally-papers. They were in his side pocket.

Q. Where did he come from when he made his returns?

A. He came out of that corner.

Cross-examination by Mr. Claypool: Have you anything by which you can fix the time when Coy and Spaan went out with reference to those papers?

A. Nothing I could give now.

Q. You might be mistaken an hour or two?

A. No, not that long.

Q. Is it not true that the occasion you refer to was after the canvass was over entirely?

A. I do not think so.

Q. You were there during the canvass of Hisey's precinct?

A. I am not positive that I was.

Q. You know there were changes made?

A. Yes, sir.

Q. You knew what the changes were?

A. No, sir; I do not know that I did.

Q. Didn't you know that the changes were taking tallies from Irvin and giving them to you?

A. No, sir; I did not know that.

Q. Were you not fully informed, before that canvass closed, just what changes had been made on Hisey's papers?

A. No, sir.

Q. Did you hear no talk of changes made in your favor?

A. I knew there was a controversy about it. I heard the controversy about the papers. I heard charges of changes made in Counselman's papers

—changes made from Irvin to me. I looked at them at the time. I looked over some one else's shoulders and could not see distinctly. I was present when Schmidt's papers were produced, and examined them as I had the others.

Q. You saw that acid had been applied to them?

A. I could not tell what had been applied to them.

Q. Didn't you at that time know from observation and information that those papers had been changed?

A. They looked like they had been changed.

Q. Had you any doubt about the matter that those papers of Schmidt's had been changed?

A. They looked much like they had been changed. I had some doubt.

Q. Didn't you hear Mr. Schmidt's statement?

A. I heard him say it was not right.

Q. Had you any doubt about that paper having been changed in your favor?

A. I don't know anything about it.

Q. There were seven papers that had been changed?

A. I don't know just how many.

Q. I will ask if every one of these papers had not been changed in your favor?

A. I can say so now.

Q. Don't you know that fully half the changes had been made for the purpose of electing you over Irvin?

A. I don't know.

Q. Did you hear the suggestion that it would be better to send for the bags when there should be any doubt about it?

A. No, sir.

Q. You were declared elected?

A. Yes, sir.

Q. You took your commission?

A. Yes, sir.

Q. And were qualified as judge?

A. Yes, sir.

Q. Your place was contested and a recount made of the votes which counted you out?

A. Yes, sir.

Q. And you have no doubt you were rightly counted out?

A. No, sir.

Q. You heard Mr. Schmidt protest and say he would not sign the return?

A. I don't remember whether he said he would not sign it or not. He said there had been some changes made.

Q. You know he didn't sign it?

A. No, sir; I never examined.

Q. Don't you know he then and there signed a written protest against the counting of his tally-sheet?

A. No, sir; I do not know that.

Q. I want to show you Mr. Schmidt's paper. This is the tally-sheet of Mr. Schmidt? [Showing it to witness.]

A. I suppose so. I heard Mr. Schmidt say it had been changed.

Q. It is in a yellow looking condition.

A. Yes, sir.

Q. Who did it?

A. I don't know. It might have been done by the clerks.

Q. I now call your attention again to the vote for Irvin in Schmidt's precinct. There seems to have been scratched something from Irvin—you saw that?

A. Yes, sir.

Q. I call your attention to your name on that same tally-sheet. Opposite your name are indications of something being added.

A. It looks like something had been put on.

Q. With different colored ink?

A. It looks so now.

Q. Adding to your vote sixteen, or something near that?

A. Yes, sir.

Q. Your attention was called to both these places that evening, and Mr. Schmidt protested against signing that report because it was not right, and you heard mentioned there about it making a change of about thirty-two votes in your favor, did you not?

A. Yes, sir.

Q. Did you see Mr. Schmidt's poll-book?

A. No, sir; Mr. Bernhamer, I think, had that.

Q. You saw these other sheets [pointing to the roll of changed tally-sheets on the table] in a similar way?

A. I don't think I saw any but Counselman's precinct. I don't think I saw Hisey's. I heard some controversy about it.

The testimony of Ayers being concluded, Samuel N. Gould was called and testified that he was the inspector for the second precinct of the Second ward and was a member of the canvassing-board. His testimony as to the facts in the returns in the Sixth and Tenth wards were as heretofore given. He testified that Counselman was very drunk on the night of the canvass.

After this Stephen Mattler took the stand in his own behalf. He said that he was fifty-one years old; had lived in the city since February, 1852; came here from Cincinnati; was a native of Alsace, and was thirteen years old when he came to this country. He said that he had a wife

and four children. The direct examination was conducted by Mr. McNutt.

Question: You were an inspector?

Answer: In precinct three, of the Thirteenth ward.

Q. I want to call your attention to a statement made by Mr. Perkins in regard to your being in a room in the court-house on the day the canvassing-board met, in room 59?

A. I have not been in room 59 to my knowledge at any time. I don't know where it is, except what has since been pointed out to me.

Q. Were you in any room with Perkins, Coy or anybody else?

A. In the circuit court-room and in the ante-room of the court.

Q. I call your attention to the statement of Perkins of your presence in a room where he was and ask whether you gave your tally-sheet on that occasion to him or any other person?

A. No, sir.

Q. What hour of the day or night did you make your return?

A. I think it was after night.

Q. At the time your tally-sheets were acted upon was any objection made to them?

A. None at all. The first I heard of any change in them was at the last Federal grand jury.

Q. I want to call your attention to what occurred, and where, as to any papers being handed to you for Mr. Hisey.

A. I was at the door of the court-house when Mr. Perkins came up and said, "Hand these to Mr. Hisey; I have to go and see a party at once." I took it and hunted for Mr. Hisey a long time, and finally found him sitting on the sofa in the judge's room, and I handed it to him. The papers were in a roll in a newspaper, with a rubber around them.

Q. How long did you have the papers in your hand?

A. Ten, fifteen or twenty minutes.

Q. I wish to call your attention to a conversation between you and Mr. Perkins at your saloon at a date I do not now recollect, at which Perkins came to speak to you about raising some money to defray his expenses arising out of the *habeas corpus*.

A. Mr. Perkins came to my place of business in April or in the early part of May after the *habeas corpus* proceedings, and said, "Steve, how much money are you going to give me? I have incurred about \$1,000 expenses." I said, "Mr. Perkins, I have no money to give you." He said, "It is rather rough on me to have all this expense." I told him I had no surplus money to give away. He came again and again and I think the fourth or fifth time. I told him, "Mr. Perkins, you bother me considerably; there's no use for you to bother me. I will not give you any money." I said, "You are worth dollars to my cents. I will give money for charity, but giving you money would be throwing it away." He said, "You will remember this; I will do you up," or something like that.

Q. Who was present when he said that?

A. Charles Mitte and George Rees.

Q. What ward do you reside in?

A. Thirteenth.

Q. What ward does Perkins reside in?

A. Thirteenth.

Cross-examination by Mr. Claypool: Do you know Mr. Coy?

A. I do.

Q. Well acquainted with him?

A. Yes, sir.

Q. Engaged in the same business—the saloon business?

A. Yes, sir.

Q. Did you know that Coy had a room at the court-house while the canvass was going on?

A. No, sir; never heard of it until afterward.

Q. You say you were in no room at the court-house where Coy and Perkins were, except in the canvassing and ante-room?

A. Yes, sir.

Q. Where was it Perkins handed you Hisey's papers?

A. In the hall of the court-house in front of the judges' room—the largest hall.

Q. Where did Perkins come from, if you know?

A. From the east.

Q. What did you say he said to you when he handed the papers?

A. "Hand these papers to Mr. Hisey."

Q. Did you know what the papers were when he gave them to you?

A. I didn't know.

Q. Didn't you know at the time they were tally-sheets?

A. I didn't know.

Q. You had your own tally-sheet and poll-list?

A. Yes, sir.

Q. And these looked just like it?

A. Yes, sir; about the same size.

Q. You tell the jury you didn't know it was a tally-sheet?

A. I had no knowledge outside my thinking it might be.

Q. I want to know if you didn't at that time understand and believe that the paper Mr. Perkins gave you to hand to Hisey was a tally-sheet?

A. He didn't tell me it was.

Q. Didn't you know he wasn't an inspector of that election?

A. I expect I did.

Q. Did he say anything to you about what paper it was?

A. He did not.

Q. Did you know that he was living in the same ward with Hisey?

A. I did.

Q. Where did you go after you got the paper from Mr. Perkins?

A. Into the circuit court-room.

Q. Didn't you hand the papers to Hisey, saying, "Here, Mr. Hisey, is your tally-sheet and poll paper?"

A. No, sir; I did not. I did not say anything.

Q. You mean to say you were not in Sim Coy's room and didn't know he had a room, and that Perkins handed you the papers and you didn't know they were tally-sheets? Had no impression when you handed them to Mr. Hisey that they were election papers?

A. I took no interest in the matter.

Q. You say you had no knowledge there was any change upon your paper until you heard the matter before the grand jury in the grand jury room?

A. I do.

Q. I will ask you to look at the figures—the tallies opposite the name of Irvin, and tell me if there have not been scratches at the end of the tallies there?

A. It looks that way.

Q. Who had the custody and control of that tally-sheet?

A. I did.

Q. Who had it?

A. I don't know that anybody had it but myself.

Q. It was then in nobody else's hand beside yours until you gave it to the board of canvassers?

A. No, sir.

Q. If it had been out of your hands would you not have known it?

A. I would.

Q. Where did you keep it?

A. Mr. Walker was Democratic judge and I told him to keep the box in his house. I left the box and the sealed papers and the other papers in the hands of the judge. They were all in the box.

Q. What condition were they in when you got them out of the hands of this judge?

A. I guess they were all right.

Q. How long had they been in the hands of this judge?

A. From the close of the count at the poll until I took them to the clerk's office—over night and during the next morning.

Q. You had the key to the box?

A. Yes, sir.

Q. So the judge did not have it in his hands?

A. No, sir.

Q. Tell me when and where you made those changes, if you made them?

A. I did not make them.

Q. Who did make them, then?

A. I don't know. I never knew they were made until the tally-sheets were before me before the grand jury.

Q. There they are, scratched, and very considerably scratched [handing-witness the sheets]. Look at them.

A. I see them, sir.

Q. Now, if these were not out of your hands, how do you account for it?

A. I don't know.

Q. I want you to count and tell the jury just how many tallies have been scratched out of that paper.

A. Well, it looks like [counting] one, two, three, four, five, six tallies have been scratched.

Q. Each tally is five votes, isn't it?

A. Yes, sir.

Q. Do you think your tally-sheet has been changed?

A. I think it has been changed by somebody. It looks like it.

Q. And still you say it was not done by Perkins in your presence in Coy's room?

A. I do.

Following Mattler, John L. Reardon, testifying in his own behalf, denied every allegation made by Perkins connecting him with the conspiracy. He said he did not carry any ink into the Grand Hotel on the 4th, but that weeks preceding that day he had taken a supply of ink and stationery to the rooms of Coy and Sullivan at the hotel, where he was at work, being employed by the Democratic county committee. He denied having been in room 59, or that he took any one in there, or if he had done so, he didn't remember it.

George W. Budd testified as follows: He said he was thirty-one years old, is married and has resided here thirty years. He said he was around the city one place and another on the day the vote was canvassed and in the circuit court-room. He was there awhile in the morning, in the afternoon and after supper, and left for home at twenty minutes of 9 o'clock at night.

Question: Did you see Lorenz Schmidt on that afternoon at any time, at 5, 5:30 or 6 o'clock?

Answer: No, sir; I did not.

Q. When did you first see Mr. Schmidt to know him?

A. When I was first brought before him in Van Buren's court. That is the first time I ever saw him to know him.

Q. Did Mr. Schmidt deliver to you, or to anybody in your presence, who afterward delivered to you, any tally-sheets?

A. No, sir; he did not.

Q. Were you present at any time when Mr. Schmidt at any time talked with Sullivan?

A. No, sir.

Q. Did you ever see him deliver a tally-sheet to Mr. Sullivan?

A. I did not.

Q. Why did you say you left twenty minutes before 9 o'clock?

A. Because I got home soon after 9 o'clock.

Q. Did you on that night deliver any tally-sheet to Mr. Schmidt, or anybody else?

A. I did not.

Q. Were you at or about the room where the board was sitting after the time you mention having left there that night?

A. I was not.

Q. Did you follow any two men under the direction of Mr. Sullivan that night and come back and report that they had "got away," or "got there?"

A. I did not.

Q. Did you follow any one man?

A. I did not follow any man.

Cross-examination by Mr. Claypool: Don't you recollect following Mr. Bowlus out?

A. No, sir; I do not. I never followed him.

Q. You say you never had Mr. Schmidt's papers in your hand at all?

A. I never had any body's papers in my hand. I have not spoken to Mr. Schmidt in my life up to the present day.

Mr. McNutt: You were not back any more after 9 o'clock that night at the court room?

A. No, sir, I was not.

Following Budd, John E. Sullivan took the stand, and the following testimony was elicited:

Question: You are one of the defendants to this action?

Answer: Yes, sir.

Q. What is your business and occupation?

A. Shipper of produce and county clerk.

Q. How long have you lived in this community?

A. Sixteen years.

Q. Where do you live now?

A. On my farm five miles from the city, at Maywood. I have lived there two months. I have a family, wife and children.

Q. Did you at any time request Perkins to get the tally-sheets from the upper precinct of his ward?

A. I never made such a request and had no conversation of any kind with Perkins, except that he congratulated me on my election.

Q. Did you say you had enough votes, but wanted to get some for your friends?

A. I had no such conversation.

Q. Perkins says you were talking confidentially with a man named Baker, with a defective foot?

A. I was, I think, in the canvassing room.

Q. I wish to call your attention to an event detailed by Mr. Perkins, in which two men, Mr. Baker and Mr. Lemon, started out of the room, whereupon Mr. Bowlus started after them, when you directed George Budd to follow them.

A. There was no such transaction.

Q. Did you direct Budd to follow anybody that evening?

A. No, sir.

Q. Do you remember what the conversation between you and Mr. Baker was?

A. Yes, sir.

Q. Was there anything said between you and Baker about changes and alteration of tally-sheets?

A. There was not.

Q. When did you first observe Mr. Schmidt at the board?

A. I believe it was about 10:30 at night. It was when he turned over his tally-sheets. I was close by Mr. Christian, by the judge's bench. After the controversy got up about his tally-sheets I got up near the speaker, so I could see and hear what was going on.

Q. What did he say when the controversy arose?

A. He protested against the vote being taken as it was. He first said he didn't know to whom he had given his tally-sheets and then that they were in the hands of a Republican, and he didn't know whether they were right or not. I next saw him the next morning, about 7:30, in the judge's private room of the circuit court. Harry Thudium was there.

Q. What occurred at that time?

A. I was in the judge's private room at that time waiting for the official vote to be announced, and Schmidt came into the room excited. He came to me and said, "Sullivan, I want you to help me out of the trouble I have got into," and said, "Ain't you the man that introduced me to the man I gave the tally-sheets to yesterday?" and I said I was not. He turned and talked to Mr. Thudium in German. I could not understand what they said.

Q. At any time during the canvass of the vote did you introduce Budd to Schmidt as a friend of yours to take his tally-sheets?

A. No, sir; I never did.

Q. Did you at any time have an agreement of any kind with anybody to get any tally-sheet from any election officer for any purpose?

A. No, sir; I never had.

Cross-examined by Mr. Claypool: This Mr. Baker was inspector of the Belmont precinct?

A. Yes, sir.

Q. Did you know his papers were scratched?

A. No, sir.

Q. Did you never hear of it?

A. Never heard of it until now.

Q. Look at it [showing witness the scratched tally-sheet]. The Baker you talked to is the Baker who had these tally-sheets?

A. I don't know whether he had these tally-sheets or not.

Sullivan having left the stand, Albert F. Beck, under indictment for this conspiracy, detailed the events at the canvassing-board during his presence. In the morning he learned that Mr. Landers' tally-sheet was not in his possession, and directly afterward Coy sent for him to come to the room east of the law library. He went there, and Coy asked what could be done by the board when the papers were not before it. Witness told him that he thought the board could send for the other sheet. He was not in the room again during the day or night. He denied positively the Perkins statement concerning him, and said he never erased or changed any tally-sheets. At no time did he have any understanding with any one as to having changes made in the tally-sheets. He knew nothing about such changes being made until he saw the newspapers on the day following the canvass.

Smith H. Myers was called and said he was in room 59 before the canvassing-board convened. Several Democrats were there talking about the proper person to preside, but he was not in the room at any other time of the day. He was not in the court-house building after 11 o'clock until some time during the evening. He never saw Perkins in the room, and nothing occurred there as described by him. Cross-examined, he testified that on the former trial he did not say he was not in the room after the noon hour.

Next came Dr. Charles N. Metcalf, who testified in his own behalf, who testified that he was thirty-eight years old, is secretary of the State board of health and resides at the English hotel. He said he was present at the court-house during the canvass, once in the afternoon and in the even-

ing, and at 2 o'clock or at half-past 2, and next time at half-past 5 or 6 o'clock in the afternoon. The first time he remained half or three-quarters of an hour.

Question: Didn't Samuel E. Perkins meet you and ask you if you knew of any acid or where any acid could be procured?

Answer: He did not. No test of acid was made in my office at that time nor at any other time.

Q. You say you went back there after supper?

A. Yes, sir. I can not tell how long I remained there. Met Mr. Bowlus and was with him for two or three hours, I believe.

Q. Did you see Perkins that night at the canvassing-board?

A. I have no recollection of seeing him.

Q. Did you make any inquiry as to the Fourth ward?

A. I have no recollection of making any inquiry.

Q. Did you ask him at some point if the Fourth ward had been returned and you said when it was returned it would "be a dandy?"

A. No, sir.

Mr. Claypool: You saw the returns from the Fourth ward, Mr. Counselman's precinct?

A. I did not know anything about it

Q. [Showing witness the Counselman tally-sheet]: Don't it look something like a dandy? [Laughter.]

A. I don't know.

After hearing the testimony of Dr. Metcalf the court adjourned until 9 o'clock A. M., July 26th. When the court was again in session District Attorney Sellers announced that he had found and desired to introduce a new witness. The defense objected, but the court permitted the new witness to be introduced. This done, Morgan H. Wier, State senator from LaPorte county, made his appearance and testified as follows:

Question: State your name, residence and profession.

Answer: Morgan H. Wier, LaPorte, Ind., a lawyer by profession. I am a member of the State senate. I have been a State senator previous to this term; have been mayor of LaPorte for two terms and am at present a member of the board of trustees of schools.

Q. When were you elected as a senator?

A. In the November election of 1884, on the Democratic ticket. I am acquainted with Simeon Coy by sight. Mr. Coy came to my seat one morning and said he wanted to speak to me. He said, as near as I can recollect his language, that Counselman must have a position; that he must be where he could be controlled or kept still, or his mouth shut. I can not give his

language exactly. I believe that is as near as I can state it. He said there was danger in doing otherwise, or not doing so. I can not give the conversation exactly.

Objected to by Mr. McNutt, in which he was vigorously supported by all the counsel for the defense.

The Court: I think the testimony is clearly competent.

Witness: I said I knew of no reason why Mr. Counselman should be controlled.

Q. What did you say to him of Counselman being charged with felony before a United States commissioner?

A. I had made that objection so frequently—

Objected to by Mr. Brown.

Q. What is the fact about Mr. Coy having been frequently in the senate chamber, conversing, counseling and advising with members of the senate during the session of 1886-87?

The witness started in to make an explanation, but was not allowed to proceed.

Mr. Sellers: You may state what, if any, charges were made in the State senate that charges were pending against Mr. Counselman?

Objected to by Mr. Brown.

Witness: It was charged that Mr. Counselman was then under bail to answer a charge in connection with the election.

Mr. Brown: Is it not true that Mr. Sellers, on the floor of the senate, supported Counselman, and did not Mr. Bailey, his assistant, defend Counselman?

The court ruled Mr. Brown's testimony out as irrelevant. A titter went over the court room as the audience caught the ridiculous attitude in which the two gentlemen had placed themselves last winter.

At the conclusion of Wier's testimony, William H. Eden took the stand. He said he received a note from Coy to meet the inspectors as they should come to the court house with their returns the day after the election and tell the inspectors to take them home and keep them until Thursday, at 10 o'clock, the day of the canvass. He met Mr. Becker on one of the lowest steps of the court-house, in the yard, and asked him if he had his papers, as the witness had instructions for him to take them home and bring them back to the returning-board in the morning.

Question: What did he say?

Answer: He said, "Go to hell; I will attend to my own business."

Q. You did it?

A. No, sir. [Laughter.] One of McLain's clerks came down about five minutes after to arrest me.

Q. Did he do it?

A. Not much.

Mr. Claypool: Your instructions from Simeon Coy were in writing?

A. He sent a note to me.

Q. And you say that note was lost while you went fishing?

A. I gave it to Callahan to keep for me and he lost it.

Q. When was it you went fishing?

A. Sometime after the election.

Q. How many months—was it a month, was it a week, a day—you can't give any information on that subject?

No answer.

Q. What did you give him the written instructions from Coy for?

A. I gave him my pocket-book and papers.

Q. What is your business?

A. I am in charge of the court-house at night.

Q. What was your occupation at the time you spoke to Becker?

A. I was at the court-house.

Q. You had a key to room 59?

A. I have it now. I had it then.

Q. You said Becker didn't tell the truth?

A. He said he met me at the corner of Delaware and Washington streets, when he met me at the court house steps.

Q. Is it not true, as Mr. Becker testified, that you told him there was no necessity to take the papers to the court-house, but to take them to Mr. Coy's room?

A. No, sir; I told him to take them home.

Q. You followed Becker to the court-house?

A. I didn't follow him to the court-house.

Q. Have you read Mr. Becker's testimony on this trial?

A. Yes, sir.

Q. And you knew that he testified you had followed him to the court-house?

A. Yes, and laughed at it when I read it.

Q. How soon after Becker went into the court-house was it that somebody came out and talked about arresting you?

A. About five minutes. Somebody said Becker had come in and said a man out there had bothered him.

Q. I will ask you if you didn't try to get Mr. Becker to take his papers to Simeon Coy?

A. No, sir.

Following Mr. Eden, John H. Counselman, the Democratic inspector of the second precinct of the Fourth ward, took the stand in his own behalf. He stated that he was twenty-nine years old, married, and kept a grocery store, meat shop and saloon. He said that when the count of his precinct was over, Abel Davis took possession of the outside tally-sheets. Mr. Davis was the Republican judge.

Question: State if it came into your possession afterward?

Answer: At the court-house, at the clerk's office, next morning about 10 o'clock he handed it to me.

Q. Where was the outside tally-sheet from the time Mr. Davis gave it to you?

A. I took it up-stairs to the circuit court-room. That was a quarter past 10 o'clock on Thursday, and gave it in right after dinner.

Q. Where was the tally-sheet, so far as you know, from the time you went up until you handed it in?

A. I had it in my outside overcoat pocket.

Q. Were you awake from the time Mr. Davis gave you the paper until you handed it in to the canvassing-board?

A. It was the first time. It didn't go out of my possession that time.

Q. Why was it not received?

A. Bernhamer stated there was a little informality about it and objected that it was not filled out properly. I received it back and put it in my pocket. I had not had my dinner and went home. After dinner I went back to the canvassing-board. I sat there in the room. Towards evening I went and got my supper.

Q. Did you still have your tally-sheet?

A. Yes, sir; and came back to the board bringing the tally-sheet with me.

Q. Did you go to sleep in the afternoon?

A. No, sir; not in the afternoon.

Q. Did you sit in the canvassing-board room from the time you went there in the morning until you went home?

A. I went out once with Mr. Davis about five minutes. I didn't drink in the forenoon.

Q. In going to dinner or returning from dinner did you drink?

A. I drank when I returned from supper.

Q. What did you drink?

A. I drank some beer. I went to sleep in that room after supper and before I gave those tally-sheets to the board of canvassers. I suppose it was after 11 o'clock, it may have been 12. I fell asleep in the northeast corner, near the judge's desk. I suppose I slept three hours.

Q. Do you recollect who woke you up?

A. No, sir.

Q. Have you any knowledge of this tally-sheet passing out of your possession?

A. I have not.

Q. Have you seen this tally-sheet since the canvassing-board completed its business?

A. I saw it twice.

Q. Have you any knowledge how it became so altered and changed?

A. I have not.

Q. As to who did it or how it was done?

A. No, sir.

Q. Did you have any understanding, arrangement or agreement with any one of these defendants or any one else by which these tally-sheets were to be interfered with in any way during the canvass?

A. No, sir.

Q. You were not drunk that day?

A. I was a little intoxicated. I was feeling a little good and went up stairs and went to sleep.

Q. When was your attention called to the subject of this tally-sheet being changed?

A. When I handed it in Mr. Elam came from the opposite side of the desk and asked me where they had been, and I said I got them from Abel Davis, the Republican judge.

Q. Did he tell you Abel Davis had changed them?

A. No, sir.

Q. Did you ever talk to Abel Davis on the subject afterward?

A. No, sir.

Q. When was your attention first directed to the scratches on the paper?

A. At the grand jury.

Q. Do you know Wilford Coffey, who works at Emerson's planing-mill?

A. Yes, sir.

At this juncture Noble C. Butler, clerk of the United States court, was called. The defense began to question him as to the custody of the tally-sheets that are in evidence, as they have been before the United States grand juries and the Marion county grand jury, with a view to make it appear that the changes and alterations were made subsequent to their appearance before the canvassing board. The court apparently became tired and informed the defense that they must attend to practical business.

A wearisome road had been traveled, and proceedings had advanced until the time had arrived to call "Sim Coy" to the witness stand. It is not egotism, but facts that

prompt the remark that my appearance on the stand created unusual interest. The committee of one hundred, and all the other partisans who would like to have indicted every Democrat in the county, but were particularly anxious to down Sim Coy, were interested in my testimony. I took the stand and was examined by Judge McNutt, as follows:

Question. State your name to the court and jury?

Answer. Simeon Coy.

Q. What is your age?

A. Thirty-seven.

Q. How long have you resided in Indianapolis?

A. Since '63.

Q. During that time have you occupied any official position in the city?

A. I have been elected to the council three times, and have served seven years in council continuously.

Q. During the time you have lived in Indianapolis have you occupied any positions in the Democratic party, and what were they?

A. I have been a member of the county committee since 1874; chairman of the committee four years; was chairman at the canvass of 1886.

Q. I wish to call your attention to your whereabouts on the morning of the meeting of the board of canvassers of the county of Marion?

A. I left my room at the Grand Hotel and came to the court-house before 9 o'clock. I came there for the purpose of assisting in organizing the canvassing-board, to see that it was properly organized. I had a conversation with the inspectors and others in regard to the selection of president of that board. It was thought advisable to have a meeting of the Democratic inspectors and for that purpose I went out and opened room 59 in the court-house. I have had possession of the key of that room for over a year, until a few weeks ago, when I gave it to one of the night watchmen, Mr. Eden. I opened the door about 9 o'clock. By that time, in the judge's room, where the inspectors were, it was agreed upon that Mr. Bernhamer should be the president of the canvassing-board. Mr. Smith Myers was there, and I suggested to him that he go and talk among the inspectors and see that Mr. Bernhamer was selected as chairman. The board organized about half-past 10.

Q. State when, if at any time again, you were on that morning in this room 59?

A. Yes, sir; I took Albert Beck there to consult him. I told him that I understood Franklin Landers had given up his tally-sheet, and it would not be produced before that board. We discussed the matter whether it would be advisable to send for the sacks; and Mr. Beck said that where the outside

tally-sheets could not be produced, that it would be necessary to go down to the clerk's office and take those that had been placed there in the sacks. That was all at that meeting. The motion to send for the bags was made along about noon or after dinner, I can not tell the exact time.

Q. I wish to call your attention to a conversation between you and Perkins to get from Mr. Hisey his tally-sheets. Was there any such conversation?

A. Never.

Q. Were you present at any time in room 59 when Perkins had any tally-sheets changing them?

A. No, sir. The only time I remember seeing Perkins was along toward noon, when I went into the room (59) to get my overcoat, which was lying on the sofa. I saw Mr. Perkins sitting at the table. I took my overcoat and passed out to the canvassing-room. I had no conversation with him at that time. I didn't know what he was engaged in. I had no conversation with him at any time about Hisey's tally-sheets or about changing them. I never advised him to get tally-sheets from anybody at any time, or to make any changes in any tally-sheets. I was not at the Grand Hotel on the day of the canvass when Mr. Perkins says I was there.

Q. Was there any time when you were in room 59, when you went in with Mattler, or he with you, and his tally-sheets were in your hands, or in the hands of Perkins?

A. No, sir.

Q. Did you tell him that the criminal judge was eighty votes behind?

A. No, sir; it was considered that he was elected by from 600 to 1,000 majority. It was along toward midnight that I learned he was not.

Q. Perkins tells that John Reardon brought a man named Flynn into room 59.

A. I met Flynn on the outside, close to the stair-way. He said his certificate had not been properly made out, and wanted to go and get the judges to sign them. I told him to get a buggy and have them signed up properly, and gave him \$2 to go and get a horse and buggy. That is the only conversation I had with Mr. Flynn. Nobody brought Flynn to me. He met me himself out in the hall.

Q. Did you say anything to Perkins about Mattler having become alarmed and changed his tally-sheets back?

A. I made no such statement to Perkins. In fact, I said nothing to Perkins that day.

Q. Did you say you would send Reardon to get some ink the same color as that the election board had used?

A. I said nothing of the kind to Mr. Perkins. I didn't send anybody on that day to get any ink.

Q. Did you at any time send for ink to be used in altering tally-sheets?

A. I did not.

The witness here at some length denied that any sugges-

tion had been made by Spaan and himself in the former's office to Perkins as to how he should swear in relation to the Hisey tally-sheet at any time. He also denied Perkins' statement that he, Coy, had said to Perkins that there "was \$500 in it to them" from the liquor league.

Question: Did you ever make any suggestion to Perkins as to how much change any of these tally-sheets would bear?

Answer: I never made any suggestions to Perkins whatever.

Q. I wish to call your attention as to the occasion when it was said you and Spaan went into room 59 after midnight on the night of the count.

A. There was a good deal of confusion there, and remarks were circulated that certain inspectors were not going to sign up returns. I asked him the bearing of the law on the subject. He was not positive about it. I said, "Let us go down to room 59." Mr. Spaan followed me. He had a pamphlet containing the election laws, and we there examined it. We did not have possession of any tally-sheets. I sat there reading a paper while Spaan was looking at the law. We were in there about fifteen minutes. Mr. Craig was with Mr. Spaan when I came up to him, and inquired about the point. After we had been in there a little while I saw Billy Wilkins slipping along the hall. I said to Spaan that he was watching us. We came out and saw Wilkins and Dennis standing in the hall and had a conversation with them, talking about the election and commenting upon it. Then we went to the canvassing board and went in. Wilkins threw my overcoat open and began feeling for a cigar. I said, "What do you want? What are you hunting? Are you hunting for tally-sheets or what?" He said, "No, I am feeling for a cigar."

The witness then detailed the visit of General Carnahan, Mr. Elam and Mr. Ransdell, of the Republican committee, to him at the Grand Hotel, when they came to inquire if he had instructed the inspectors to bring their returns to him. He explained that the rooms of the Democratic county committee were in the Iron block, but "with some candidates I had private rooms at the Grand Hotel, where most of the work was conducted."

Question: Did Perkins at any time during that day ask you for a knife?

Answer: No, sir; I never owned a knife in my life, until I was given one about a month ago by some oil company.

Q. Do you know Senator Weir, of LaPorte?

A. Yes, sir, I do; very well. I went to Morg. Weir one morning at the State Senate and said to him that I understood there was a petition to be presented here to remove one John H. Counselman, who is an assistant door-

keeper. I said to him, "This man is an honest, honorable man; Republicans are trying to get him removed, and you, as a Democrat, should stand by any Democrat who has been appointed by the door-keeper." Morg. Weir had got a little bit off and was a little bit shaky; got sick and went home about that time.

Q. Did you say he had to do this for this man in order to keep his mouth shut, or words to that effect?

A. I did not, sir.

Cross-examined by Mr. Claypool: You speak about there being an impression that the criminal judge was elected by five hundred or six hundred majority—which one?

A. Judge Ayers.

Q. How late was that impression in the minds of you and others?

A. Until about midnight.

Q. Give me the names of the six who were in room 59.

A. I can not. I was talking with Smith Myers.

Q. Who was present at the time you counseled with Beck?

A. No one but Mr. Beck and myself.

Q. Was Hissey in there as one of the six?

A. No, sir; I never saw Mr. Hissey.

Q. Was Baker?

A. No, sir.

Q. Was Schmidt?

A. No, sir.

Q. Was Mattler?

A. No, sir.

Q. Neither of these constituted one of those six?

A. No, sir.

Q. Was Mr. Burton in there?

A. Not at that time.

Q. Was Mr. Flynn in there?

A. Not to my knowledge.

Q. You didn't tell Senator Weir the mouth of Counselman must be kept shut?

A. I did not.

Q. You heard Mr. Weir's testimony?

A. Yes, sir; I did.

Having left the stand, William Flynn was called. He testified that he was an inspector of the second precinct of the Twenty-fifth ward. He knew Coy and had a conversation with him in the hall of the court-house on the day the vote was canvassed. He said his poll-book had not been signed by the officers of the board, and Coy, in

the hall, gave him \$2 to get a horse and buggy to go and find the officers and get them to sign the poll-book.

Question: Do you know John Reardon?

Answer: Yes, sir.

Q. Did that gentleman take you, or did you go with him, to any room in the court-house, on that day, where Coy and Perkins were?

A. No, sir.

Q. You say no such transaction occurred?

A. I did, sir.

Q. Did you ever have any conversation at all with Reardon respecting your tally-sheet?

A. No, sir.

Following Flynn, Henry N. Spaan took the stand and said that he was thirty-five years old, is married, an attorney doing business in the city and lives at Irvington, four miles east of Indianapolis. He said that he was born in Holland, came to this country when a child, lived in Chicago about ten years, and the remainder of the time, up to eleven years ago, in Iowa. He came to this city in May, 1877. He testified he was present at the board of canvassers on the 4th of November, 1886, from the beginning, and he was there as the employed attorney for three different officials elect: Isaac King, John Sullivan and Christian Brink. Mr. Spaan's testimony, while exceedingly circumstantial, was like that of his associates, in that it denied every point in the testimony that has appeared against him. He detailed the occurrences in the canvassing-board at as great length as Mr. John B. Elam had done, but not with the clearness and directness. He gives as his explanation of his presence in room 59 with Coy, at the time that Dr. Theodore A. Wagner, looking through the curtains there (not denying the fact), and when Mr. Wilkins and Mr. Dennis, reporters of the *Journal*, saw him and Coy coming from the room, that they were in there investigating a law point regarding the effect of the refusal of a number of inspectors to sign the returns. He testified that he left Mr. Craig, of the *Sentinel*, to go with Coy and was gone but fifteen or twenty minutes, his testimony appear-

ing to dovetail with that of Coy and Craig in this particular. He testified that he did not say to Perkins, "What in h—l did you make that motion for; what will we do with the altered tally-sheets?"

Question: I want to call your attention to a gathering in your office. Did you tell Perkins, either there or any place else, what he should swear to before Commissioner Van Buren?

A. I did not.

Q. That he should swear or testify that he took the tally-sheet of Mr. Hisey into the water-closet and "saw it was all right and handed it back?"

A. No such thing took place. Perkins came to me in my office—I can not fix the time or the day, but it was during or a day or two previous to the investigation before Van Buren—and I said to him, "Mr. Perkins (or Sammy), what do you know about this matter?" He said, "I will tell you all I know about it. I was one of the watchers at the polls; there was a controversy as to the right of possession of the outside papers and Werbe, the Republican judge, grabbed them and ran away." Perkins said he went to the canvassing-board next morning and saw Hisey about his papers; that Werbe came up and gave them to Hisey. He had a suspicion they were not right and walked away a little piece with them, saw they were apparently right, and handed them back to him. I asked, "What will Mr. Hisey say?" and Perkins said Hisey would corroborate him all the way through; that Hisey went into the water-closet and left his papers on the marble wash-stand and went back in fifteen or twenty minutes and found them in the same place. Perkins then went away. The next time I saw him he, Perkins, said, "My God, what will I do? Old man Hisey has been to my house and says he won't testify to what I told you; the old man said he and his wife had been praying over it, and he would not testify to it in that way." I told him to go to see Mr. Oscar B. Hord and get his advice. I got \$50 of Mr. Perkins. I was told that he was willing to give to the defense before Van Buren. The men who were accused had to raise the money from the outside, and I gave Perkins a receipt for it. That money went to the Duncan firm and myself. There was \$900; we got \$450 apiece. That is the only \$50 I got from him, and that is the way I got it. I have had several conversations with Perkins about money. I saw him in the marshal's office one time and he wanted to know "if you boys were going to help me [Perkins] pay expenses before Judge Gresham?" I said I had no money to give him. He said I got the benefit of it. He said, "You fellows have raised a good deal of money and ought to divide with me." There was not a word said about the jury or anybody else. He did say, however, "I will see that you fellows help me in this matter or you will wish you had."

The witness testified that he did not see the changes on any of the tally-sheets until he looked at Schmidt's, and he

saw they had been changed and said so. He was examined by Mr. Claypool at great length concerning his advice given during the session of the board regarding motions and resolutions, and said that he had acted from good intentions.

Following the testimony of Mr. Spaan, a large number of witnesses were introduced to prove the character of Simeon Coy. I had lived in Indianapolis for twenty-seven years; I had been in active public life and in business for myself for many years; my life had been open, above-board; known and read of men of the highest character, men who scorn a lie and detest a villain. Such men flocked to my rescue when I was pursued by a heartless gang who sought to destroy me and to wreck my character, and willingly bore testimony to my integrity as a citizen and an honest man. This list of witnesses is as follows:

William H. English, retired banker, Democratic candidate for Vice-President, 1880.

John P. Frenzell, president of Merchants' National Bank.

Hiram W. Miller, ex-county treasurer.

Myron D. King, ex-deputy secretary of State.

William H. Morrison, ex-member of the council.

James Renihan, funeral director.

James H. Rice, ex-auditor of State.

William B. Burford, publishing house.

Albert Gall, carpet store.

Terrence Cullen, chief clerk Grand Hotel.

John L. Steeg, abstractor.

Victor M. Backus, carriage manufacturer.

Isaac King, sheriff of Marion county.

Charles Reynolds, real estate dealer.

Charles W. Gorsuch, real estate dealer.

John Schaffner, restaurant.

James McKee, stock dealer.

William H. Schmidt, with Sanders & Recker.

Thomas Markey, member of council.

John Rail, member of board of aldermen.

Timothy Clark, member of board of aldermen.

Theodore F. Smithers, ex-member of council.

Dr. L. H. Comstock, dentist.

Charles Feller, jeweler.

Charles E. Haugh, Sentinel Printing Company.
Stephen J. Crane, jeweler.
Michael J. Burns, member of the council.
Charles Lincoln, with the Arcade clothing house.
Theodore Sanders, furniture dealer.
Henry Laut, member of board of aldermen.
Henry Habeney, box manufacturer.
Charles P. Conard, deputy sheriff.
John W. Fultz, ex-member of the council.
John M. Bowmie, carriage manufacturer.
Daniel Foley, member of the legislature.
Wesley Davis, carriage manufacturer.
W. W. Messenger, furniture dealer.
P. J. Kelleher, hatter.
Thomas Taggart, county auditor.
James Dougherty, cigar dealer.
William K. Sproule, ex-county auditor.
Carl Moeller, wall-paper dealer.
George F. Phingst, proprietor Grand Hotel.
Dr. S. E. Earp, ex-secretary city board of health.
Charles Reese, firm Hollweg & Reese.
Chas. M. Cooper, attorney.
John Dunn, plumber.
John J. Cooper, ex-treasurer of State.
W. W. Spencer, county attorney.
Allen W. Conduitt, wholesale grocer.
Abram Springstein, contractor.
John C. Dalton, hatter.
Wm. A. Peelle, State statistician.
Edward Meyers, newspaper route agent.
Wm. J. Craig, *Indianapolis Sentinel*.
John Carlon, bookbinder.
John Newman, ex-member board of aldermen.
T. B. Messick, ex-assessor Center township.
J. W. McGinnis, deputy revenue collector.
C. B. Wadsworth, deputy revenue collector.
Col. J. B. Maynard, *Indianapolis Sentinel*.
Michael O'Donnell, ex-chief of police.
James H. Deery, ex-superintendent of letter carriers.
William Kerr, with Landers & Co.
Jacob Fox, boot and shoe dealer.
R. O. Johnson, reporter of the *Evening News*.
Capt. John Molony, boot and shoe dealer.
Thomas Madden, lounge manufacturer.
Emil Rassman, insurance business.

H. O. Thudium, editor *Telegraph* (German.)

Peter Spitzfadden, retired merchant.

Abner N. Newland, court bailiff.

Dr. F. J. Van Vorhis, lawyer.

J. B. Conaty, livery business.

Dr. L. A. Helm, dentist.

When a court is organized to convict, falsehood is exalted and truth is degraded. When partisanism is permitted to distort facts and circumstances, and confessed felons are permitted, for a consideration, to make a trial itself a crime, courts become, as in the days of the monster Jeffreys, infernal machines, and their devilish machinations fill the minds of honest men with horror. And when the victims of such judicial guillotines can bring forward, as I have, scores of the best men in the community where they have lived, to bear testimony to their good character, the fact becomes a benediction, for it bears triumphant testimony that partisan mad dogs, wearing Republican collars with Government stamps, have not inoculated every one with the venom of their fangs.

The first great political trial in the United States district court was now drawing to a close. The evidence of both sides of the controversy had been given to the jury, and it only remained for counsel on both sides to make their arguments. The trial had steadily grown in interest, and now lawyers, doctors, business men and men of leisure were present to hear Emory B. Sellers, United States district attorney, make the greatest effort of his life. Sailing under Democratic colors, it was seen that he had, by his boot-straps, lifted himself to an altitude where he could commune with the pure-minded men composing the committee of one hundred, and swallow, without choking, the testimony of Perkins.

After argument had been made by the Government, Judge Cyrus F. McNutt, William D. Bynum and the other counsel for the defense made their plea to the jury in an able manner. They were followed by Judge Solomon

Claypool who closed the argument for the Government. Judge Woods then delivered his charge to the jury, who retired to deliberate upon a verdict. The jury was out about forty-eight hours, and when it was announced that they had disagreed—standing eight for acquittal and four for conviction—my friends were, of course, jubilant, while on the other hand those who were seeking my conviction were goaded to madness. The grand jury that had indicted me was again re-convened and new indictments were returned against me at this session of the grand jury, upon which I was to be again tried in the near future.

CHAPTER VI.

THE next chapter will be devoted to the arguments of the counsel for the defense, giving their speeches in full. My attorneys were all well-known gentlemen of State reputation—politically and professionally.

Judge Cyrus F. McNutt resides in Terre Haute, Ind., and is considered by the bar (irrespective of party) to be one of the most learned and accomplished lawyers in the State of Indiana.

Hon. Wm. D. Bynum resides in Indianapolis, and is a representative in Congress from the seventh congressional district, this being his third term; and although a young man, he is considered one of the leading men of the Indiana delegation in Congress.

Hon. Jason B. Brown, of Seymour, Ind., is recognized as one of the leading criminal lawyers of the State. For years he was a member of the Indiana State Senate, and he is at present a representative in Congress from the third congressional district.

Hon. John W. Buskirk, of Bloomington, Ind., is a lawyer of note and a well-known politician in his part of the

State, and is considered by the legal fraternity to be a close student of the law.

Hon. John W. Kern needs no introduction to the people of Indiana. He formerly resided in Kokomo, and in 1884 was nominated by the Democratic party for reporter of the supreme court of Indiana. He was elected and held that position for four years. During his term of office and since that time he has resided in Indianapolis. Although a young man, he is recognized as one of the leading lawyers of the State, and one of the most gifted and brilliant orators. For years he has taken an active part in politics in every campaign.

Henry N. Spaan, Esq., was one of the defendants, and a well-known attorney of Indianapolis. His speech was in his own behalf, and was delivered in a very clear and effective manner.

In politics these gentlemen are all Democrats. And although on my second trial I was convicted, I am fully satisfied, as far as my attorneys were concerned, no case was more ably argued, or handled with greater skill.

Mr. Spaan addressed the jury, and in the course of his remarks said that he did not want to present to them a one-sided case; he wanted to present all the facts. If he misstated the evidence he desired to be corrected. He first spoke of the election of Bernhamer as chairman of the canvassing-board. "With that I had nothing to do," said he; "that was an action of the board of which I was not a member, and the election was completed." He showed that the evidence was uncontradicted; that he (Mr. Spaan) was present at the board as the attorney for Mr. King, the sheriff; Mr. Brink, the recorder, and Mr. Sullivan, the clerk. The next point taken was the motion made by Mr. Landers to send for the sealed bag in the clerk's office, and to see the tally-papers therein contained in all cases where

the outside tally-papers were not in the hands of the inspectors. "The Government contends," said Mr. Spaan, "that I went to Perkins after Landers made this motion, and said to him: 'What in h—ll do you mean by getting Landers to make this motion; what will we do now with the altered tally-sheets?' This statement of Perkins is a lie on its face. How could I be talking then, at a time before the counting began, about altered tally-sheets, when Perkins did not enter into this conspiracy, according to his own statement, till four or five hours afterward, and he swears that he altered the first tally-sheet?"

"Another thing, gentlemen," continued Mr. Spaan, "who will you believe on this point, Perkins or myself? If you say that I am to be placed within the shadow of conviction upon the statement of a self-confessed liar, criminal and traitor, I am willing to go to the penitentiary. But I warn you, that the memory of such a conviction will haunt your lives all the days under the sun. It is a fearful thing to put the brand of shame upon a man with a good reputation upon the unsupported statements of a criminal who, in order to escape the punishment he deserves, makes a bargain with the Government to turn traitor. Gentlemen, there is honor among dogs, among murderers, among thieves, but this man Perkins has fallen even below that. His name is a hissing and a by-word to every man upon the street. He has the contempt of even the outcasts and pariahs of society. Wherever the name of Samuel E. Perkins is heard there is heard a sneer or a curse. This is the man they ask you to believe against a man of whom Judge Howe said: 'Mr. Spaan, for several years past, has had considerable practice in important cases in the superior court, which have brought him prominently before the bar and the judges, and I think there is no member of the profession, young or old, who stands higher with the bar and the judges than Mr. Spaan, as an honorable practitioner. When I say honorable practitioner I have in mind

what I regard as the essentials to an honorable practitioner, which are that a man should observe the utmost good faith to his clients, keep inviolable his engagements with opposing counsel, carefully abstain from deceiving the judges or the jury as to the law and the facts, to which I may add another, that when he gets beat he does not go off and excuse himself to his client by villifying the judge and the jury. In all these essentials Mr. Spaan stands fully up to the requirements of the code of legal ethics, which, I believe, is as rigid as that of any profession.' Gentlemen, take your choice. Believe Perkins, the Judas Iscariot of this case, or believe the man with the luminous record just given. It is not in a spirit of egotism that I say this; I say it because in this supreme moment of my life I am entitled to the record I have made.

"Now, who is Perkins, the man with whom they expect to overwhelm me? The attorney for the Government says he is an avaricious man. Gentlemen, of all the crimes avarice is the meanest. The avaricious man denies his children food and his wife clothes to wear; he would sell his soul for a dollar. The jingle of gold is sweeter to him than home, friends or hope of heaven. He will sell his soul to the devil for money. Well has the good book said: "The love of money is the root of all evil." Perkins loves money. Perkins is avaricious, and in order to glut his avarice, he committed a crime, and now, for money, he lies against men whose shoe-latchets he is not worthy to loose."

Mr. Spaan next explained his presence in room 59. The explanation was complete and fairly swept the case of the Government out of existence on this point. "Mr. Sellers," continued Mr. Spaan, "says he does not believe that I went into room 59 with Mr. Coy to look up the law. I do not care what Mr. Sellers believes—that does not determine this case. He is sworn as an officer of this court to convict upon the evidence, and he has no right to obtrude into this case his beliefs. Mr. Craig, of the *Sentinel*, says that he

heard Mr. Coy ask me to look up the election law. Mr. Sellers says this was a piece of imagination on Mr. Craig's part. He meant by that Mr. Craig lied. He hides, coward-like, behind an inuendo. Why doesn't he discuss this case right, like an honorable, straight-forward man?" Mr. Spaan wound up by saying: "I am willing, gentlemen, to leave the issue between myself, with the record Judge Howe gave me, and the man Perkins, with the record he has given himself: a self-confessed forger, a convicted liar, and henceforth and forever an outcast in this community."

ARGUMENT OF HON. W. D. BYNUM.

With permission of the court and gentlemen of the jury, I think we may congratulate ourselves that we are nearing the end of this trial. You have been very patient—extremely patient—in hearing the testimony, while suffering from hot weather during a large portion of the time, and considering your close confinement, which, I am satisfied, has been rather severe for men of your habits. Patient as you have been and as close attention as you have given the testimony in this case, and feeling that you fully understand all that has been said by each and every witness, I am somewhat loth to undertake a full discussion of the evidence, and yet it is a duty, of course, that we owe our clients. It is somewhat difficult to discuss the evidence of a single defendant, and while I appear for but a single defendant an arrangement or agreement of the counsel, we are to cover the case as far as we may be able to do so in a general way. Therefore, my argument will not be confined especially in the interest of Mr. Beck, but will be made on the whole case as given to the jury.

I desire in the beginning, gentlemen, to clear away the rubbish, and if I can in an intelligent way, to bring your minds back to the issue in this case. But little time has been devoted to hearing testimony upon the issue and upon the charge in the indictment in this case; that is, any testimony that has any direct bearing upon the indictment or upon the different counts of the indictment. If we want to try this case fairly, and if we want to apply the testimony and give it due weight, we must first ascertain what there is before us to try. We must first ascertain what the men are being tried for, and then we will be able to judge of the relevancy of the testimony that has been given before you. Why are these men charged? Why are you summoned here, and what are you impanelled here to try? Why would you believe—and this crowd here believes, no doubt, from hearing the argument and hearing the testimony, and probably the public from reading it, if it has

been given to the public—that you are here trying these men for having committed a forgery upon these tally-sheets? That is the thing that has been kept uppermost in your minds by the prosecution. That is the thing that has been kept before your minds in the argument in this case by the district attorney. That is not the issue, gentlemen; that is not what you are to try; that is not what you are sworn to try. The indictment charges—and I can probably read the indictment and give a clearer conception of what the charge is than in any other way. The indictment is in three counts. There are three conspiracies charged in this indictment, and not one single conspiracy to change the tally-sheets, and to count in a Democratic judge and a Democratic coroner and count out a Republican judge and a Republican coroner. There are three conspiracies, or, a conspiracy, in other words, to commit three “crimes against the Federal Government.

The first count is: “The grand jurors, etc., charge that the defendants, etc., unlawfully, knowingly, feloniously, on the 4th day of November, etc., did then and there conspire, confederate, combine and agree together, between and among themselves, to commit an offense against the United States.” Not the State of Indiana, as the district attorney appeals to you in the name of, but against the United States—“and did then and there unlawfully, knowingly and feloniously conspire, combine, and confederate and agree together, between and amongst themselves, to induce”—now here is the crime that they are charged with having conspired to commit—“aid, counsel, procure and advise one Allen Hisey to unlawfully neglect and omit to perform a duty required and imposed by the laws of the United States.” Now, I might stop there and you would have a very good understanding, and I shall not take your time to read any further from this count, but simply state what the charge, in substance, is. They are charged with unlawful conspiracy, as I have read you, to commit an offense against the United States by aiding, advising, counseling and inducing Allen Hisey, an inspector, to part with the possession of his tally-sheets. That is the charge, gentlemen, and all this testimony that has been given to you as to a change in the tally sheets has not been for the purpose—has not been allowed, I might say, by the court—because it has any other bearing on the case except that it may enable you to determine who advised and aided and counseled and was a party to this conspiracy to obtain possession of this tally-sheet. All this testimony that has been given before you in relation to the changes that have been made on all these tally-sheets has been given with the sole view and with the sole object of enabling you to determine who the parties were who conspired to obtain possession of the tally-sheets. Now, this is the first count. The count for the second precinct of the Thirteenth ward.

But there is another count in this indictment—the second count, which charges these same parties with having conspired to commit an offense against the United States by unlawfully advising, aiding and counseling Lorenz Schmidt, the gentleman who was upon the witness stand, to commit an offense against the United States by parting with the possession of his tally-sheet.

The court will tell you, gentlemen, that the variance between the allegations in the indictment and the proof in this case, or the admission of the fact in this case. Take that count out of consideration, so far as any question of conviction is concerned, because it is charged in the indictment that Lorenz Schmidt was the inspector of the second precinct, which is not true, and which could not be support by the proof—the fact being he was inspector of the first precinct. Therefore, that count is out of consideration, and the court will so instruct you.

The third count charges the same defendants with having conspired to commit an offense against the United States by unlawfully inducing, aiding, advising and counseling John H. Counselman, an inspector in the Fourth ward, to part with the possession or with the custody of his tally-sheet. So far as I have heard the testimony in this case I have not heard one word of testimony that shows that that tally-sheet was out of John H. Counselman's pocket or out of his hands after it was delivered to him by Mr. Davis, the Republican judge. The only evidence there is on that point, and that has any tendency to prove that fact, is the fact that it appears when it was returned to the canvassing-board it was in a mutilated and changed condition. Who it was, if any person, that made that change there is no evidence here. Who it was who induced him to part with the possession of that tally-sheet, if he did part with it during the time, the testimony does not disclose.

And I want to call your attention to this fact, because it is important: These parties are not charged with the mutilation of that tally-sheet; and, if John H. Counselman was asleep in a corner of the court-room, I care not whether drunk or sober, and these parties stole the possession of that tally-sheet, they can not be convicted under the charges in the indictment. There is no controversy about the facts in this case; because, before they can be convicted of the crime you must find that John H. Counselman committed a crime; that is the law; that is the offense they have committed; not in mutilating this tally-sheet, but in advising John H. Counselman and inducing him to part with the possession of it, in violation of the law. That is the crime; and I say that there is not any evidence before this jury that you would convict the meanest felon on the top of God's green earth upon, that shows that John H. Counselman parted with the possession of that tally-sheet with his own consent, or with his own knowledge. Now, I simply call your attention to the different counts in the indictment, because I want, if possible, in the argument in this case to enable you to arrive at a just verdict. That is all I want to enable you to do. If I can be of any assistance to you in discussing this testimony and in discussing the law, as I understand it, and enable you, when you arrive at the jury-room, to better consider this evidence and the force of it or the relevance of it, and to better understand the instructions of the court as they will be given to you, why, I will have accomplished all I expected to and really more than I expect to. These statutes of the United States provide, as the Court will tell you, that every person who induces an election officer to violate any duty imposed upon him by the State, is guilty

of an offense. They further provide that if two or more persons shall conspire and combine together to commit an offense against the United States, one of them does an act in pursuance of the conspiracy to carry out the conspiracy, all shall be guilty.

Now, the second count of the indictment is out. You are not here to try anybody for obtaining possession of Lorenz Schmidt's tally-sheets, even if in the imagination of any number of individuals that might be gathered together and called a grand jury, and empanelled as a grand jury, anybody could be indicted for advising that man to part with his tally-sheets, when he was hunting around for somebody to take it off his hands.

The third count, as I have called your attention to it, so far as the evidence is concerned, it seems to me, and I believe it seems to you in the same manner, that it is out of the case, so far as conviction of any of these defendants is concerned. Then you simply have, in my judgment, to try the sole question, and the only question as to who the parties were that aided, advised and counseled Allen Hisey to part with possession of his tally-sheets. That is what you are called upon to try now; and all the evidence that has been given in before you, and all the witnesses that have been called, and all the tally-sheets that have been exhibited, have been permitted by the court to go to you to enable you to determine that one fact, or facts, as alleged in the indictment, and to enable you to arrive at a just verdict, so far as that count is concerned.

The laws of the State of Indiana provide that the boards of election, after they shall have counted the votes and made out the tally-sheets and poll-books, shall make out a certificate, and the first thing they shall do after that is done they shall seal up one poll-book, one tally-sheet and the ballots and put them all in a paper bag. After that is done, the law says the other tally-sheet shall be deposited with the inspector or with one of the judges designated by the board. And right here we insist before you, as a question of fact, that these tally-sheets were never deposited with or placed in the custody of Allen Hisey or John H. Counselman by the board of election in their respective precincts. What are the facts on that point? The facts are that the votes had been no sooner counted in Mr. Counselman's precinct until Abel Davis, the Republican judge, seized hold of the poll-book and tally-sheet—that is, the outside poll-book, tally-sheet and certificate—and there is no controversy about that fact, gentlemen, and said: "I am entitled to these." There is not a witness that comes here and disputes that fact. With whom were the poll-books and tally-sheets in the Fourth ward, in Mr. Counselman's precinct, deposited by the board of election if not deposited with Abel E. Davis? Were they deposited with John H. Counselman, the inspector of election? Why, he never had possession of them until on Thursday morning, when he went to the court-house the day the canvassing-board met. And Davis testifies to you that he went there for the purpose of making the return and acting as a member of the board of canvassers, as he understood that was

his duty. If that is the fact, gentlemen of the jury, there could be no conviction here if there was no contradiction of testimony; if there was no dispute about the facts, even if these defendants had obtained after that time possession of the tally-sheets from John H. Counselman, because he was not the legal custodian of it at the time; he could violate no law by parting with the possession of it. Whenever the board of election in the precinct placed, or suffered, I say, that tally-sheet to go into the possession of Abel E. Davis and suffer him to carry it away—suffer him to retain possession of it—it was a deposit of the tally-sheet in his possession, so far as the law is concerned, and from the moment that board adjourned with that tally-sheet in the possession of Abel E. Davis, that very moment that board died. And Abel E. Davis never had or possessed the power of transferring a tally-sheet to another person. He became the custodian of that tally-sheet and could not re-invest John H. Counselman with the possession of it legally. Why? Because he derived his authority from the board. He was acting as an officer of the board. The board was dead and he had no power to transfer his powers to John H. Counselman any more than he had of transferring them to me or to Judge Claypool, or to any other person to act for him. He had no such power.

I say, therefore, if the jury come to the conclusion, and it is a fact for you to consider under the evidence, that these tally-sheets in the Fourth ward were deposited with Abel E. Davis, he was the custodian of these tally-sheets, and there could be no conspiracy to get any individual to violate the law except Abel E. Davis. John H. Counselman could no more become the legal custodian of those papers than you or I could become the legal custodian of them. His possession was wrongful and unlawful all the time after they were placed in his possession. For what purpose go to the court house? Why, he says, he was to act as a member of the canvassing-board; he went there for that purpose. But he says “I did not do so, because I was informed by some person that they did not allow anybody but inspectors on the board.” That is no excuse for Mr. Davis; he is presumed to know the law; he ought to know the law, and the law was that a judge of an election, one of the judges with whom the tally-sheets and poll-books had been deposited, was just as legally entitled to become a member of that canvassing-board, that returning-board as it is commonly denominated, as any inspector who was then in possession of a tally-sheet and of a poll-book and of a certificate. Therefore, I insist to you that John H. Counselman was not, at the time this charge is made, the custodian, was not an officer of the election. He had parted with the custody of these papers, they had been placed in the hands of Mr. Davis; not by resolution, because that was not necessary; not by a vote of the board, because that was not necessary. If they all tacitly consented that Mr. Davis should take possession of those papers, he was the custodian of them, and became virtually a member of the board of canvassers. From that time forward he could not part with the possession of those papers, and this indictment should charge a conspiracy to obtain possession of these papers from Abel E. Davis, an officer of

the election, and not John H. Counselman, who was not an officer of the election, but whose duties had ceased.

Now, what are the facts as to the other precinct, Mr. Hisey's precinct? Mr. Werbe took possession there. Did Mr. Hisey make any objections? Not a word of it. Nobody objected there except Mr. Perkins. Perkins says that Mr. Hisey did, and Hisey says he did not. But while I may hereafter, in regard to some others, discuss as to who is worthy of belief, I am not going to insult your intelligence by arguing as to who is entitled to belief, as to Samuel E. Perkins or old man Hisey. Hisey says that Werbe claimed possession of them, and while they were discussing about the matter before it was settled, and while Perkins was looking around for the law—he was the man who was objecting; Hisey made no objection—Werbe went off with them. There, I say, was a designation or a consent. It may have been, of course, giving without expressing a single word, but the poll-books and tally-sheets were deposited with Mr. Werbe and not Allen Hisey by that election board. Why, Werbe says, gentlemen, that he took those papers home and kept them until the morning the board met in the court-house. He went to the court-house with them for the purpose of making the return, and when he got there he did not have time to do it, and asked Mr. Hisey to take them back, and Mr. Hisey refused. What was the excuse Mr. Werbe gave for turning these papers over to Mr. Hisey? Why, that he did not have time to stay there and attend to the matter. He was busy. Not that he was not the legal custodian of those papers. Not that he did not have a right to act with that board. Not that anybody had advised him that the judge of election could not be a member of the canvassing-board, but he had not the time to stay there and make these returns, and he wanted Mr. Hisey to take them off his hands. That is his excuse, his reason for parting with the possession of them. Mr. Hisey refused until Perkins told him he had better take them. Now, gentlemen, that stands upon just the same grounds and same footing that the precinct of Mr. Counselman stands upon; that is, that Allen Hisey was not designated by that board, nor is the party with whom the board of election in his precinct deposited these papers. This is the exact language of the statute: they shall deposit them with the inspector or one of the judges of the election, selected by the board. Now, these members, it seems, insisted, it is true, that they were there by matter of right. In that they were wrong. That is the fact. The inspectors had the prior right. If from ignorance of the law, which he can not plead, and which no officer can plead, and no citizen can plead, because every man is presumed to know the law—if from ignorance, I say, they suffer these men, under the belief that they did belong to them, to take possession of the tally-sheets, poll-books and certificates of election, nevertheless these Republican judges become the custodians of these papers; they were deposited with them, and they were responsible for the possession and for the control of those papers from that time forward until the canvassing-board canvassed the vote. If that is true, gentlemen, I care not if every defendant here was a party to an avowed and proven conspiracy to obtain possession of this tally-sheet from Allen Hisey; there

is no violation of the law, because he was not the custodian, therefore he was not an officer of election, and for that reason these parties could not be guilty of the crime of having induced an election officer to violate a State law.

Now, as I have stated to you, gentlemen of the jury, the laws of the State require, after the tally-sheets are made out, and after the ballots are sealed and the poll-book and one of the tally-sheets sealed up with the ballots, that they shall be deposited with the inspector, and the inspector is to make the return, or whoever has been made the depository by the board; and as the court has well said in your hearing, no resolution is needed. There is no formal way of doing that thing. It is not necessary to show it was done by vote, that some man was elected president and that some man was elected secretary of the board, and that a resolution was passed, recorded and certified, or anything of that kind. If they were placed in the possession, or I think the court will say to you, if the members of the board suffer them to be taken possession of without objection, with the understanding that they were to act as members of the canvassing-board and make these returns, they become the legal custodians of the papers, and they could not re-invest the inspector of his rights after that time, because they derived their power, their authority, from the election board, and that board is dead after they adjourn. They had derived their power from the board, and there is no power of agency coupled with it. They can simply go and discharge their duties and that is all they can do. They are requested to keep these papers safely. That is what Judge Harlan decides in this case in constructing the law; that the inspector or the judge with whom they are deposited, shall safely keep and preserve these papers unharmed, and that he violates the law or becomes a criminal whenever he parts with the possession of them. Therefore, before you convict these defendants you must ascertain in the progress of your investigation, whenever you get into your jury room, that Allen Hisey is a criminal, indicted solely for the reason that they induced Allen Hisey to commit a crime. That is the indictment. Why, gentlemen, if they would charge these defendants with having conspired to forge and change these tally-sheets in regard to the criminal judge and in regard to the coroner of Marion county, the court would say to you, as the circuit court has already said in a case, "Out of here with such a case as that. That is not a case for the Federal Government, but it is a case for the State Government, and the Federal Government has no right nor power to punish men for changing tally-sheets in regard to county officers."

The Federal Government would have no jurisdiction in this case, even for the parting with possession of these tally-sheets, were it not that it was an election and upon that tally-sheet was the tally for a member of Congress. That is all that gives the Federal court jurisdiction, and when they file an affidavit setting out the facts in this case, that these parties conspired to commit a crime against the United States by changing the vote for coroner, and by changing the vote for criminal judge and mutilating the tally-sheet, even though it was upon the same sheet upon which the vote for congressman was

recorded, this circuit, that is this court, has no jurisdiction over that offense. They have committed no crime against the United States. Therefore, the Government, to acquire jurisdiction, must go back and charge these defendants with having done some other crime and perpetrated some act which was in violation of the Federal laws before they changed the tally-sheets. What is it, that they induced these inspectors or induced the legal officers, whose duty it was to keep possession?—and it is only an implied duty, because the statute is silent upon that. It does not say that these inspectors shall remain in possession of these tally-sheets, retain actual custody, but it is an implication by the law that whenever they are deposited with them they are deposited for that purpose; therefore, it is an implied duty, and these defendants are charged simply with having induced the inspector to commit an offense by failing to discharge the implied duty, a duty by implication, by the State law. Now, gentlemen, I have gone over these questions of law because I want, in the discussion of the testimony, to call your attention to certain facts that have relation to these very questions, to see who could become and were the parties to the conspiracy to induce Allen Hisey to part with the possession of his tally-sheet. Now, it will be very strong evidence that the parties that took Allen Hisey's sheet and changed it, whoever they were—I am not discussing that question now—it will be a very strong presumption, and it would be a very strong link in the chain of evidence, that those parties were the same party or parties to the conspiracy to obtain possession of them. That would be the strongest evidence that could be given, and, while we differ with the court upon that, of course it is the settled law of this case, and we tried the case upon the basis that if the parties conspired to get other sheets for the same purpose for which the Hisey sheet was obtained, it is proper evidence to be considered by the jury that the parties that obtained possession of other tally-sheets and made similar changes to those that were made upon the Hisey sheet, were parties to the conspiracy to get Hisey's tally-sheet.

But it is not conclusive, gentlemen of the jury. It does not follow as a fact. If you should find from the evidence that the parties who obtained possession of Hisey's tally-sheet had changed it and returned it to him, then the conspiracy in this case is at an end and all subsequent acts must fail in this case. All subsequent acts. And that is the view that I have taken and that is the reason that I have called your attention to the law in this case, that we may go back and try the real issue; that we may examine the testimony relative to the real merit of this case. I think now, gentlemen, that probably we have cleared away the brush and the smoke, dust and fog that has been thrown over this case by the prosecution, and we are able to come together to the real question, and that you will be able to apply the testimony and weigh the testimony and see what force and what bearing it has, and whether all these defendants or any part of them have been guilty of the real crime charged in the indictment. Gentlemen of the jury, good name in man or woman is the immediate jewel of their soul. The good name of these

defendants is at stake in this case. Why, here is Johnny Reardon, an honest boy, sustaining a good character, he must go down before this self-convinced criminal. Here is young Budd, who brings the men with whom he has had important business transaction, that swears that he is honest; that his character for integrity is undisputed. He must go down on the testimony of this same perjured criminal. Here comes Dr. Metcalf, who sustains a character among his own profession and among business men that any man might be proud of. He must go down to the bidding of this perjurer, Perkins.

Of Simeon Coy and Stephen Mattler I have no excuse to offer for the business in which they are engaged. I only say to you that probably these men in their early childhood had not the advantages of other men. If they had, gentlemen, probably they would not be engaged in the business in which they are; because they come here with all the odium that is likely to be engendered in a community where they have for years engaged in the transaction of that business; they come here and not one man can be found in this community to say that the character of either for integrity and honesty is questioned. Not one. It is said they are true men, true to their friends; that they are honest, that their integrity is unquestioned. Faults they may have, as you and I have ours, but they are honest men, true men; and probably if they had had the advantages that other men have had they would not be engaged in that business. But it is not to be taken because they are engaged in that business that they are criminals, and that the testimony of this man Perkins is sufficient to convict them. Why, gentlemen, not only are all these defendants to be found guilty of crime, but the entire number, ten, are guilty of perjury; if you are to find them guilty, you are to sustain the testimony of that man who is confronted with ten honest men, ten honorable men. Not only that, but you are to say that Mr. Myers is a liar, that Mr. Hisey is a liar, that Mr. Burton is a liar, that Mr. Berg is a liar, and that this self-confessed perjurer is to be believed above them all. Why, gentlemen, it does seem to me that it is not necessary to argue of that kind to men who are under the law required to find these defendants guilty beyond a reasonable doubt. You will not convict a man of stealing chickens on such testimony as this. These men are to be convicted on his single testimony. I call your attention to the fact that there is not any testimony of a criminating character except that of Perkins, none whatever. Now, the law requires that you be satisfied of the guilt of these defendants beyond a doubt before you can say that they are guilty of this crime? What is a reasonable doubt? It is such a doubt as would rise in the mind of any man where he is left perfectly free to act upon his own volition and where he would act in matters of his own concern of the utmost importance. Gentlemen, would any of you, in your own most important affairs, where you were left perfectly free to act one way or the other, take any step on such testimony as this? Would you do that? Would you say I am satisfied beyond all doubt upon the testimony of this man who has shown himself unworthy of belief; upon the testimony of this man whom, the district attorney says, could be bought. To deliberately sit down and change a tally-sheet and the result of an election, to convict these men?

Would you convict a man, I say, upon that testimony and say that you were satisfied beyond a reasonable doubt.

Gentlemen, I thank you very kindly for your attention. I have occupied a longer time than I intended.

ARGUMENT OF HON. CYRUS F. McNUTT.

There can scarcely be any fair sort of argument of this case—not such an argument as a lawyer ought to be willing to make—without some reference to the charge itself, or the charges, if you please; and I may be pardoned for expressing my astonishment that neither in the opening which was made by the district attorney to you when he stated this case yesterday a week ago, nor in the argument which he made to you on yesterday, occupying nearly a half-day, and which in some of its aspects was able and in none of its aspects fair, I say I can not withhold an expression of utter astonishment that he has not had the fairness or courage—he has lacked one or the other—to speak to the issue which he proposes to discuss. And I think there is good reason for it. The real issue in this case is a will-of-the-wisp. It is a barren ideality, a miserable make-shift, and is covered over with an ocean of chaff. He has given his attention just as his colleague will give his to the chaff, without talking to you about the real issue in the case. He has not dared to challenge your consideration of the real and only issue in the case, because he knew if he did so that all the stuff of which he has talked here, bore so slightly, so remotely, upon it, that it would be like talking against the wind. Why did he not tell you, gentlemen, what it is these men are charged with. Recall his speech. Recall his opening statement to you a week ago. You may look through every word and syllable of it in vain for any statement of the issue you are called to try, and any one listening to his argument here yesterday would have supposed that you gentlemen were trying these gentlemen upon a charge of mutilation and spoliation of the tally-sheet; would not you? And yet the judge presiding in this case, and every other judge who has touched upon this case, says that of that offense there is no jurisdiction in this forum. The only question that you are called upon to try—and all others that have been made in this case—are mere incidents; the only question is whether or not these men are guilty of conspiracy to do what? To procure and induce certain named—not guessed at, not supposition—but named, inspectors of election, to part with or to fail to keep in their custody certain tally-sheets and certificates of election. Now, that is the issue here. The prosecutor didn't state it to you. Has he said anything of the sort? And yet that is the charge in the indictment, as you have seen from his reading. He has attempted to disguise it. He has attempted deliberately to smother it beneath a whole ocean of other stuff which has been permitted to come in here only as it might illustrate that point.

After taking up and reviewing the charges, Mr. McNutt continued as follows :

Now, these are the charges, so far as they are before us, and these are the charges to which we are called to respond, and the only one of the evidence which has been allowed in this case has come hither for the purpose of illustrating that charge, and if it all fails to prove beyond a reasonable doubt—and you alone are the judges of the evidence in the case—if all this evidence fails to prove beyond a reasonable doubt that one, at least, of these charges is proved against two or more of these defendants with Perkins, then you must acquit. Seriously, gentlemen, and I say it in the utmost candor, that if this case were being urged and prosecuted in any ordinary spirit known to the law, if it were not backed up by that sort of extraneous influence and power here which does not often surround men accused of crime in the courts of justice, I would be content to state the proposition and leave the argument to be made, whatever might be made, to the other side, for the statement of these propositions is the refutation of them. How long, gentlemen of the jury, ordinarily, if men were charged—and I want to put it to you plainly—with one of the offenses that are common with conspiring to commit one of the ordinary offenses of life, and there were no more proofs than there are against any man in this case—I mean on this issue we are trying here, and that does include Perkins, remember—I ask you how long it would take you to find a verdict? Just about as long as it would take you to write it. That would be all. You would not stop to consider any evidence that has been brought in here that is pertinent to this case, and it is presumed to be all of it pertinent in some way to establish it, and as having established it, for you to seriously ask a question about it. And yet, gentlemen, you were asked by the Government of the United States, through its representative here yesterday, to consign these ten men, each and every one of them, with a felon's stripes on this evidence. I say the proposition is monstrous, an insult and an outrage upon your sense of right and justice that these men have been guilty of a conspiracy to commit the offense charged in this case. There is not one of you that would for one moment stop to make a second inquiry upon it in an ordinary case that was environed as this case seems somehow to be. That is the charge—a charge of conspiring to get election officers to part with the custody of election returns. The next inquiry to which I shall invite your attention is, who are the men charged? We have found what the charge is. Who are these men against whom the charge has been levelled, against whom it stands in this court? When the prosecution came yesterday to that question do you remember how he answered it? He put the question in the exact form I have put it to you; and do you remember his answer? why he saw looming up before him here when he put that interrogatory in some shape or form—I do not recollect the form of it—a mountain absolutely overpowering, an overtowering mountain of evidence that these men were honest, upright men of integrity and honor. And what did he say to it? Why, he swept it away

like he had attempted to sweep away the liberty of a half a dozen young men here. Johnny Reardon, who has a face like a Sister of Mercy, and looks just about as much like a criminal as the angels of Raphael in his pictures do—he swept it away, gentlemen; swept it away with one sweep of his official tongue by saying: “Well, good character goes for nothing, excepting as it may appeal to the mercy of the court.” Well, gentlemen, if that were the law we would have waited until you had made your verdict and then addressed our evidence to the court on the subject of good character. You do not have to pronounce sentence. You have to find whether these men are guilty or not, and we would not have addressed this evidence to you. That is not the law, and I do not suppose that there is a school boy in America that does not know that it is not the law. If there is, then all I have to say is that I hope they will introduce just one chapter in one of the text books to use in the common schools of Indiana so that the next district attorney, who shall spring from the ranks of the people, may become equipped with knowledge of the fact that good character addresses itself to the question of guilt or innocence. In Jerusalem, about nineteen hundred years ago, there was a trial on one occasion in which good did not go for much. It was a trial before Caiaphas, high priest, and the defendant was Jesus of Nazareth. He had been a man of peace; he had gone among the people in the humble walks of life doing good, and that old scoundrel—I don’t know whether he was district attorney of Jerusalem or not; I don’t know how far he represented Cæsar; but as the representative of the Jewish sanhedrim, he would not allow the character of Jesus of Nazareth to be proved in his behalf. Outside of that trial, unless, indeed, it was in the unholy inquisition of mother church, I never heard until it came yesterday from the mouth of the district attorney for the district of Indiana, that the character of a man was not to be considered on the question of guilt or innocence. Some lawyers little more learned—very little too—than the gentleman, have said that it ought not to be considered as affecting the question of guilt or innocence except in a doubtful case. Well, in a doubtful case a man has got to be acquitted, anyhow, and so it can not be considered there. Then what sort of a case is it in which a man’s character, proven good from boyhood; in what sort of a case is it that his character is to have weight? I submit to you that if there has ever been in the annals of criminal jurisprudence a case in which character ought to stand for something, it is a case where nearly a round dozen of men are attempted to be consigned to a felon’s cell by the evidence of a self-convicted felon. I submit it to you, gentlemen. I submit it to you; and let us try this question as a practical one among neighbors. A girl comes to you for employment in your domestic service, and there comes creeping upon her heels a reptile who you know is a self-confessed seducer and debaucher of virtue, and he tells you that the girl is not a pure girl. Twenty-five of your neighbors, men that you have known all your life to be observant of your neighbors’ conduct and of the conduct about them, men of intelligence and truthfulness, come in and say they have known the girl from

the time she was in swaddling clothes. "I saw her at her mother's breast, and have seen her all the way down the twenty years of her life, and she has always deported herself as an honest and virtuous and true girl." I want to know how long you would keep her out of your service? That is all. Oh! they say, it is the dirty reptile that would know, gentlemen. If the destinies of men of honor are to be put in the hands of a reptile because the reptile knows filth and wrong better than anybody else, then God save us all. There is no such rule of law. There is no such rule of reason. There is no such rule of common human conduct. You are ready to say, and so am I, it is simply the outcry of the human heart; it is the judgment of the human conscience, based upon human experience, that whenever the good men of a community say that one who is assailed is a good man, we should take the words of such against the words of the man who comes with his tongue loaded with the poison of asps, as this miserable creature does.

Well, then, gentlemen, I take it—and am I to be mistaken before this jury called away from its vicinage, from every part of the State, hither to try this case, from the goodly State of Indiana—am I to be mistaken when I take it that you, gentlemen of the jury, in the trial of my clients in this case, will invoke these common sense rules, and common sense principles that would govern you if you were going to hire a man to guard the virtue of your daughter, or the life of your wife or the safety of your property? Who is it comes here? Who comes here, gentlemen, and under what circumstances, to swear away what is a million times dearer than life to these men? And this involves *quo animo*, as lawyers call it, the circumstances that surround the man who comes to do the task. It is a big task—not a lofty one, but it is a big one. A big contract that he and his confreres have undertaken here; and they have done it valiantly—valiantly, gentlemen. While this fellow Perkins has been the simple, supple instrument in the hands of whomsoever, we will see who they are—the "soever." That is what I want to come at. I want to show you the environment of this testimony. I want to show how he comes in this court, with his slimy form crawling on to that witness stand. I want to show you how he comes clothed with all this. On the admitted evidence—for I shall not follow the example of the prosecuting attorney and travel abroad—there is enough in this case to have kept the prosecutor busy if he had been fair and just enough to have discussed his case. How does he come here? I want to know, and I want to put it to you just as you would put it to each other, because I am one of you in this fight, as the prosecutor said yesterday he was one of you. We have come hither from abroad, gentlemen, to make a common inquiry. It is the duty of the prosecutor to fairly present this case to you, and he is guilty of a wicked outrage if he does not do it. It is my duty, and I will be guilty if, knowingly, I do not present this case as it is, or as it seems to me from the evidence, in good faith. Let us see how does this man come here. Well, he says that he is a criminal. That is the first proposition. He says he did all the changing on the tally-sheets that he personally knows was done. Now, doesn't he say that? I put it to you. The prosecutor forgot to

call your attention to that. It was but fair to these defendants that he should have said that. He says that he himself, with his own wicked fingers, wrought the only spoliation that he personally knows was done. Doesn't he say it? Yes, that is what he says. Very well, now, that fact of itself ought to put honest men on their guard about this fellow's testimony when he attempts to involve others in it. If he had come in here for the first time, from the moment he would say that you would say, now, then, if he doesn't know anything, only what he has done himself, except only inferentially, we had better inspect this evidence pretty carefully. But, gentlemen, how else does he come? I charge here, and do it proposing to make my word good, that before he ever came into the environment of this court, and, gentlemen of the jury, I am no flatterer, but I do not believe that within its environment he could have done what he did before he got here, and entered into the contract which I call your attention to.

Talk about conspiracy! Talk about a conspiracy to rape the ballots, despoil tally-sheets, to get officers of elections to part with the custody of tally-sheets, I tell you, gentlemen, wicked and malevolent as that is, it is incomparable and infinitely inferior in its perfidy with the crime which is sought to be perpetrated through the forms of law, through the courts of the State of Indiana. I appeal to the record, I appeal to the record made not by these defendants, but made by those who come in here with holy eyes uplifted and holy hands shaken at the enormity of this offense. Let us look at it, gentlemen. Let us look at it just as we look at any transaction of the kind. Do not let us allow ourselves to cover it over with any glamour of judicial proceeding, as if judicial proceeding or quasi judicial proceeding of that kind could sanctify crime, but let us take it as it comes to us with all its hideous aspect, and see what there is in it. Here is what we find, that in the first place this fellow was prosecuted. That is, he was not exactly prosecuted, but he was called before an officer of the law to answer. Now, I have nothing to say about his denying that he knew anything about this matter, but the evidence is that he persistently, day after day and week after week, denied in every form that human tongue can lay to, that he knew anything about these tally-sheet outrages, and all that sort of thing. He lay in jail for eleven days to test—he says, and the witnesses say, and he did not deny it—simply to test the jurisdiction of this court to try a question upon which they wanted to inquire of him as a witness. I shall always to the day of my death believe that this court decided right when it said the witness could not raise any such question; but it was raised and he was discharged upon a writ of *habeas corpus* and went out then with flying colors. Well, he went off then with flying colors and felt, I suppose, a good deal of security. I suppose he did. At all events he went out discharged and free from all embarrassment. Well, what is the next thing? Why, the next thing is that the prosecuting attorney of the criminal court of Marion county appoints one Ritter, one Captain, or one Colonel, or one E. F., or one some Ritter, to be deputy of his office and charged him, it seems, with the function of catching

Perkins; gave him full power, I suppose, to rake him in from whatever quarter, and to make such bargain with him as he might, and I suppose he did, because afterwards he loaned his name and official countenance to a document which is a reproach and disgrace to our courts of law, if under its wing and cover it can be rendered sacred or even respectable. This man Perkins, representing not the State of Indiana, as he tells you here, but representing some committee that was mad because the Democratic party had carried Marion county, representing some such committee as that, he goes and begins to negotiate with Perkins.

Now let us see what they do? It is as old, perhaps, as criminal jurisprudence that the government, in the course it is adopting of common law incident to it, and came along with it over with our forefathers, and attached itself to our law, and has been recognized as an incident of criminal law all the way through our history. I have no assault to make upon the rule, but I want to call your attention to it so that you can appreciate why they wanted to make this contract with the viper. The rule was, if there had been any conspiracy to commit a crime and they were all indicted and all before the court, I want of them pleading to a common indictment that the counsel might ask of the court to *nolle* the case, or discontinue the case, or suspend the case against one of the men for the purpose of using him as a crown's witness. Now, that is as far as the rule ever went anywhere. The court recognized it here as proper, but that was as far as the rule ever went. I say here, and I say it in the light of history, that a contract made with the counsel of the crown, or with his deputy, with a witness before him that he should not be indicted, would have driven the judge to have excluded the evidence of a convict as being incompetent. That is the first aspect of this matter that we confront, and I invite your candid attention as jurors sworn to determine between these men and the Government. That is the sort of introduction this fellow comes with in his hand, with a brazenness that can only be attributed to moral idiocy, for there is such a thing as moral idiocy as there is such a thing as mental idiocy. That can only be accounted for on the ground that this fellow is a moral idiot, who comes upon the witness-stand and discovers to you this contract before it is even brought before you. And what is it as he relates it? I think he is right about it. I think that this contract made by these parties was simply carrying out the agreement in parol, which had been made between him and Captain Eli F. Ritter, and deputy prosecutor and representative of a committee. What is it? It was this: that he had written out what he was willing to swear to, and they agreed if he would swear to that that he should have absolute immunity—from what? From punishment? Well, that would have been right along the line, right in the neighborhood. It was that he should have absolute immunity from indictment from any charge by that grand jury then in session or any future grand jury that might be impanelled for all time to come. That was his contract and that was the contract under which this man began to swear. That is the contract under which he began to swear against these defendants. At that time Captain Ritter, as the representative of this committee, thought he would be satisfied if

he could just simply catch Coy, and thus decapitate the Democratic central committee. Coy was the fellow they wanted. They thought he was a little too good a chairman of the committee and concluded to dispose of him. To read this contract is all you need to be convinced that that was the animus of Captain Ritter; that that was what he had in his mind. This contract is very accurate in its description. It describes with an accuracy almost by metes and bounds sufficient to show how you would get into one room from another and by what sort of an approach you would get into a room. The contract was entered into that he should swear against Coy. Well, he swore against Coy. He says he did, and Ritter says he did, and yet there was no indictment found. I don't know why. We have no information upon the subject, but we have his evidence that he agreed to swear that Coy had him get the tally-sheets from Hisey to change them, and he went and did it under Coy's direction. He swore to that before the grand jury. The grand jury heard it. Ritter was there and examined him. The grand jury did not return an indictment. I suppose they did not believe him, but that is only an argument of my own.

Talk about a devil-fish! I will call your attention to the devil-fish in this case. I want now to invite your attention to who is the devil-fish in this case. He did not catch Coy. The grand jury did not believe this scalawag, and he went off. Then my friend the Captain—no, I won't say that—then Captain E. F. Ritter began his machinations to extend the cause of this devil-fish, and gather in others; and he has been gathering them in, gathering them in ever since. Whenever they thought they could either strike down a witness, as they undertook to strike down this gallant young lawyer here, and as they tried to cripple one of the young men who happens to be a clerk in the office of one of the principal defendants, they struck him down. He is the real devil-fish. He is hardly big enough to take a ship down; I don't think he is big enough to take a soul down, unless it be that he has one of his own in his own miserable carcass, which you will suffer me to doubt. I say that this is the devil-fish who has been gathering in these men, at the behest of whom I know not.

Coy was the first man they were after. They failed in that.

I want to call your attention to another matter: There is another witness, another Richmond in the field. He came a little late; but better late than never, cries the prosecutor. Who is it? Morg. Weir, I believe they call him familiarly. I dislike to say anything unkind about anybody, but I am going to prove to you by this evidence that he lied; that he came here with a lie in his mouth; came here to pass as a Mugwump reformer; came here with a lie in his throat; and I will prove it—prove it to you by the evidence. He lives in the city of LaPorte; and I believe he tells you that he wrote a note last Saturday to the district attorney, believing that this case was through, stating what he had heard, or what he would swear to, I do not know which. Do you believe that a senator of Indiana, a resident of the city of LaPorte, where the telegraph and newspapers go daily, because you take judicial notice

of that fact—do you believe that on last Saturday Morg. Weir believed that this case was over? Do you believe that he thought this case was over, or had an idea it was over? But do you not believe that when he came here and told you that he was attempting to carry double in this case; attempting to make these men believe that he had come upon the witness stand against them by an innocent accident on his part, and at the same time stabbing them a blow like an assassin?

Let us see. He tells you he wrote a note to the prosecutor last Saturday. Why write a note to the prosecutor last Saturday if he thought this case was over, gentlemen? Why should he write a note to the prosecutor detailing evidence that would have been important, if true, a week before? You see, he did not believe any such thing. He knew the state of this case as well as you did, or I did, or anybody else did; and I have a right to say, in the light of this evidence, that when he said he did not he simply swore to a falsehood, and did so for the purpose I have spoken of, a contemptible purpose. If he thought he was to serve the country by coming here why did he not come like a man, and not come dodging around like a poltroon and falsifying his own history, falsifying common sense, falsifying common language and common experience by any such statement as that? He came here to *pose*; that was his object and his whole conduct showed it. I suppose he wanted it to go abroad—Morgan Weir, a State senator, had voluntarily come forward with important evidence for the country. It is in the evidence that there was some talk between him and Coy, possibly about this man. I do know Coy was a little distrustful of him. Coy says he was off, a little off. You know what that means, I suppose. He was always off in his politics. I do not like to say unkindly things, gentlemen of the jury, but I think, as he is a historic character, that I have a right to say that he has been off and on in politics all the time, and he can show his stocking to all comers.

Now, gentlemen of the jury, I simply want to put it to you whether you would give any considerable weight to the evidence of a man who comes and admits in your faces that he is playing double in this case. You could have some and I could have some respect for him if he put it on the ground that he came here to testify to what he knew, and that he had notified the prosecutor because he thought it was his duty, but when he undertook to lie about it I say he challenged the contempt of every honest man in this court room. Now, gentlemen, I can not, because I am physically unable even if time permitted it, go much farther in this argument. I want, in conclusion, to say that this case stands before you upon this evidence as it has been so ably presented by my associates and very lightly referred to by me, and as it will be at greater length and much more ably presented by my successor, Brother Brown. For myself, with an unshaken confidence and belief that this jury will be controlled by the right, and that justice will prevail in this case, I commit my clients' case to your hands.

ARGUMENT OF HON. JASON B. BROWN.

May it please your honor, and you, gentlemen of the jury, doubtless you have all thought that there has been much more discussed, longer discussion, on behalf of the defendants in this case than was either appropriate or necessary. I have often thought when I have heard cases tried that sometimes there was danger of talking the case to death; but when you will consider for a moment that here are ten gentlemen impleaded in the same indictment, charged with the heinous crime of conspiracy, that in many respects each has his separate defenses and appearing by separate counsel, I think you will agree with me that the defense has not gone yet and will not go beyond a rightful and appropriate limit in reference to time, as well as to everything else in the presentation of the defense. Jurors, the learned judge upon the bench, you in the box and I at the bar, now occupy very close relations to each other. Each of us has taken an oath which is to govern our conduct here. You have sworn that you will truly try this case and a true verdict render, according to the law and the evidence. That is the verdict you have sworn to render, and not a false, fictitious and counterfeit verdict; not a verdict to serve popular clamor upon one side or the other; not a verdict to please the ambition of a young district attorney or the bloody vengeance of the old practitioner. You will pass upon the evidence in this case regulated and governed by the law, as the learned judge shall give it to you. I have sworn that I will honestly discharge my duty, and with the help of God I shall attempt to do so. And I shall urge nothing in favor of either of these defendants except that which my conscience and my judgment fully approve.

That a crime has been committed I am not here to doubt or deny. I am not here as the apologist of crime; I am here to prevent the commission of crime; I am here to see that no wrong is done by any possible mistake that this jury or any one else might make. Where is the jurisdiction for the punishment of that crime? It is not here, it belongs to the great State of Indiana. What offense against the United States did they conspire to commit so far as the indictment discloses? We are accused of conspiring to have an election inspector omit to perform his duty by keeping custody of the tally-sheet of an election where a representative in Congress was voted for. The Government must prove first the conspiracy as averred in the indictment; second, the object for which the conspiracy was organized as averred in the indictment; third, the acts done to effect the object and purpose of the conspiracy as averred in the indictment.

If, therefore, jurors, you have a reasonable doubt whether this conspiracy is proved, that is an end of your inquiry. It is not necessary to go further. If there lingers a reasonable doubt in the mind of a single man on this jury, sir, there can be no conviction. Each juror must consult with his fellow-jurymen; but so long as one man on the panel has a reasonable doubt as to the existence of any fact material to prove the crime laid in the indictment, there can be no conviction.

I desire to call your attention to the first count of this indictment—a portion of it. After naming the defendants, it says: “Did conspire, confederate and agree between and among themselves to commit an offense against the United States.” Bear that in mind: an offense against the United States. “Did then and there unlawfully, knowingly and feloniously conspire combine, confederate and agree together between and among themselves to induce, aid, counsel, procure and advise one Allen Hisey to unlawfully neglect and omit to perform a duty required and imposed by the laws of the State of Indiana relating to and affecting a certain election held at and in the county of Marion, and District of Indiana, at the second precinct of the Thirteenth ward of the city of Indianapolis, in the county of Marion aforesaid, on the second day of November, 1886, pursuant to law, at which a representative in Congress for the Seventh congressional district of Indiana was voted for.” That is the conspiracy, and that is the part of the indictment, so far as this court is concerned, that states the conspiracy.

Now, it tells what the purpose, the object or the desire of the conspiracy was. It is this: To unlawfully neglect and omit, to safely keep in his possession and custody the tally-papers, poll-lists and certificate of said election at said precinct; “he, the said Allen Hisey, being then and there an officer of said election, to-wit: an inspector of said election at the second precinct of the Thirteenth ward of the city of Indianapolis aforesaid, having been there duly qualified under the laws of the State of Indiana, and acting as such inspector.”

The indictment is complete, that is, so far as stating the conspiracy is concerned, and so far as charging the object of that conspiracy, your Honor, it is wholly irrelevant and immaterial for what purpose the conspirators wanted the tally-papers, whether it was for the purpose of mutilation, whether it was for the purpose of greed or gain of any kind. No matter what the purpose was, it is no part of the crime denominated in the law of Congress. When the corrupt agreement was made and when the purpose of the corrupt agreement was made known, then the conspiracy and its object was complete in all their parts and conditions. The next step to make the indictment good was simply to say that some act was done to accomplish the purpose or object of the conspiracy. Whether that purpose or object was accomplished or not, is wholly irrelevant and immaterial. The gist of the offense is the conspiracy. The accomplishment of the conspiracy is a natural result following the action of the conspiracy. The non-accomplishment of it would be a failure, but the crime of conspiracy would be equally as complete if an act was done, if failure was consequent, as it would if success had been consequent. I say this to you, gentlemen of the jury, and within the hearing of the learned judge, for this purpose and with this hope, aye, with the full belief that the hope will not be vain, that the jury may not be misled into the miserable mire and clay that the district attorney and those married to him in this case have been attempting to besmatter and bespatter and besmirch this jury with all the way along. This crime is complete when an act is done to obtain from

the hands of these inspectors, or, that is, the inspector named in the indictment, after Perkins made a demand or an effort to obtain the tally-sheet, as it was after Perkins received and mutilated it. Human experience has taught you and me as well as other inquiring men that when one is engaged in a cause the weakness of which is apparent, and which he feels and must necessarily feel, he then hopes to succeed in his engagement by drawing the attention of those who are to determine and settle the matter away from the real party.

Mr. Brown went on showing the fallacy of the prosecution, growing more eloquent each succeeding period until he was through. His closing words were as follows:

Now, gentlemen of the jury, I am about to take my leave of you in this case. Your attention has been called to the fact that the law is that every presumption is of the innocence of the accused. The law presumes that each and all of these accused persons are innocent of every material act necessary to fix this crime upon them. That presumption is their great bulwark. It is the great wall that is built up to protect citizens in the enjoyment of life, liberty and property. It is stated, gentlemen of the jury, that that presumption stands asserting dominion and authority over the jury until each juror is satisfied from the material evidence in the case that the defendants are guilty beyond all reasonable doubt.

Jurors, your coming here has not changed you in any way. You are the same citizens of the United States and of Indiana that you were when you left your homes. There is nothing mysterious lurking in the atmosphere to invade the rights of the jury. This is a trial by jury. The jury is one of the sacred institutions of our country. Our English ancestors gave this institution to their posterity nearly three centuries ago, and from that day to this it has held a place throughout the civilized world. It is secured to us by the constitution of the United States and by the constitutions of the several States of this Union. It is an independent branch of the judicial department of the Government, and no administrator of public affairs, no political party, no officer of the Government, no district attorney, not the President of the United States nor the judge on the bench, has the right to invade the sacred domain of the jury. It is the people's tribunal, and to it they make their appeal for protection of life, liberty, property, reputation, and all the dearest interests of this life, and when the duty of the jury has been discharged no power on earth has rightful authority to criticize or condemn it.

Jurors, my duty is done. Let me invoke you, not as men but as citizens, not as citizens but as jurors; by all your obligations, public, private, moral and religious; by every consideration which gives character and value to a true administration of justice; by all that gives your life charm or your age ease, save, oh, save these defendants from the touch of the oath of a self-constituted and self-acknowledged felon.

ARGUMENT OF HON. JOHN W. KERN.

At 10:45 o'clock Hon. John W. Kern began what will undoubtedly be a memorable argument in the history of criminal law. From the time he began his masterly effort to the close—four and a half hours thereafter—he held the jury, attorneys, auditors and apparently the court, spell-bound. On several occasions during Mr. Kern's great speech, tears came into the eyes of several of the jurors, and the defendants were visibly affected. He said :

I will say, not as a matter of interest to you, gentlemen of the jury, but in justice to myself, that I am not an orator. I was born up here in a country town where I practiced law all my life, and I am not familiar with the practice of this court. But in a common sense way I shall try to aid you in coming to a just conclusion in this case. Always, when I am to address a jury, I feel a great responsibility, and when I believe that my clients are innocent of the crime charged, my responsibility becomes greater. In this case I feel a very great responsibility.

Now, gentlemen, not because I wished it so, nor because the gentlemen who represent the Government wished it, but from the very nature of the case, party politics has entered into this case. I hope politics will not enter into your verdict. When this jury was drawn, I do not think it out of place to say that we received information about every one of you gentlemen, and so did the attorney on the other side of this case. We knew just who were Democrats and who were Republicans, but that was not the question we asked when you took seats in the jury box. All we wanted to know was, "is he an honest man?" That was all. I am not here to ask any favors of this jury. I simply shall ask that my clients be acquitted because the evidence does not prove them guilty. This I shall demand from you, gentlemen, and I shall proceed to tell you why.

In civil cases, where only money or property is involved, a preponderance of evidence is sufficient to turn the scale; but in criminal cases a much stronger rule is enforced. Before you can convict in criminal cases there must be a mass of evidence upon which you would act promptly and without any reasonable doubt. Another thing I want you to remember is that a defendant is always deemed to be innocent until he is proven guilty. The district attorney has come in here bound to produce this sort of evidence in this case. Has he done it? You know he has not. If we were disputing here over the ownership of a cow, and we were the defendants, you would not take the cow away from us on this evidence, much less convict us of a crime. I am not going to take advantage of any technicality, nor am I here to apologize for crime. I denounce crime, and I denounce this crime. I admit that

the tally-sheets were changed, but these defendants are not charged with that. They were taken before Commissioner Van Buren on that charge, and Judge Gresham said to Van Buren: "Stop there. The United States has nothing to do with a charge of that kind." The charge against these men is that of inducing election inspectors to part with their papers.

Gentlemen, I hope you have no prejudices in this case. Still, it is human to have prejudices. You all remember the great contest between Tilden and Hayes, and the matter was left to a high commission composed of the greatest men in the land. Five of them were justices of the supreme court, supposed to be further from politics than any other men on earth, and yet it is a matter of record that the seven Democrats went to their little corner and said Tilden was elected, while the eight Republicans voted for Hayes.

Now, as to this witness, Samuel E. Perkins. I have nothing against Perkins. He never did me any harm. But you know there are things in existence from which we involuntarily recoil. There is the skunk, for instance. Now, I don't like a skunk, and, gentlemen, I don't suppose you do, either; but a skunk never did me any harm, except once or twice. [Laughter.] I feel toward Perkins the same as I feel toward a skunk. [Laughter.] Perkins says he knows of two forged tally-sheets, and he tells you, gentlemen, that these are all he knows anything about. Who does he say committed these forgeries? Why, he said to you, "Excuse me, but I committed these crimes myself." [Laughter and applause.] Is it on the testimony of such a man as this that you send your neighbors to the penitentiary in your county? I am speaking to you now of a self-confessed villain—a whelp. Excuse me, I will withdraw the word whelp if you will suggest a word to take its place. [Laughter.] Who contradicts this scoundrel Perkins? Smith Myers, an honest man, says Perkins lied. Henry Spaan says he lied. Daniel Burton says he lied. Michael McGlynn says he lied. Dan Lemon and Thomas O'Neil say he lied. Dr. Metcalf and Mr. Berg, both honorable men, declare that Perkins swore falsely with reference to the acid matter. Then there are Micheal O'Donnel, Simeon Coy, John E. Sullivan, Stephen Mattler, and others, eighteen witnesses in all, gentlemen, who came in here and squarely contradicted this self-confessed forger, Perkins. And yet, it is upon the testimony of this unclean man that the Government wants you to convict these defendants.

Gentlemen, do you remember what Perkins said when he was asked if he undertook to sell his father's honor while he was a member of the supreme court? He said, "Well, I declare, I don't remember." "I don't remember." Would either of you, if asked if on a certain date you stole your neighbor's horse, or committed a burglary, or nearly beat your wife to death, would you answer, after looking at me awhile, "Well, now, I don't remember?" No, you would indignantly deny the foul charge, if you didn't knock me down for insulting you. Think of believing a man who would sell his father's honor, or debauch his mother's virtue! Think of convicting a man on the testimony of such a man!

The question here arises, gentlemen, whether you will desolate homes, rob

honest citizens of their characters by placing the heavy hand of the law upon these defendants, or whether, in these last days of the nineteenth century, you will rise above party prejudices and say: "My little gentleman [meaning Perkins], we can not, upon our oath, convict these men upon the testimony of a self-convicted villain like yourself!"

We are fortunate to have here in Indianapolis a committee of one hundred distinguished citizens. They have resolved themselves into a committee to protect and see to it that the remaining 99,000 people behave themselves, and I am glad we have such a great, self-constituted committee, headed by such men as Eli Ritter and Bill Henderson.

In men of whom the world speaks ill,
I find so much of goodness still;
In men whom men pronounce divine,
I find so much of sin and blot,
I hesitate to draw the line,
'Twixt good and ill—where God has not.

Why, when I went home to my pillow at 12 o'clock last night I felt much more secure and I slept much more soundly when the thought came to me that Ritter and Henderson's committee was in existence. [Great laughter.] This committee went to Perkins and said: "Sammy, if you bring us a scalp, or a bundle of scalps—such scalps as we want—you can go clear," and Sammy was just as ready to accept this proposition as he was to alter the tally-sheets. He had not slept well for several nights, in all probability. He forthwith went to work to deliver up the scalps, and this trial is the result of his attempt. Will you assist him in carrying out his foul scheme? Do you suppose when this committee went to Perkins and told him if he would testify against Coy that he could go, that he would hesitate a moment? No; you know he would not. Did he hesitate when he was asked to change the tally-sheets? Does he even pretend that he hesitated?

There was one thing that touched me deeply in this case. That was when those old soldiers—Knefler, Foster, Kerr and Madden, who had marched in the hour of danger with Stephen Mattler—the man who bared his bosom to the flying bullets of this country that the old flag should not be divided—these men come in here, and what do they say? That they have known him for thirty years and that he is an honest man, that his character is unimpeachable. And yet this felon, Perkins, undertakes to connect Stephen Mattler with this crime.

I want to say a word about this man Coffin, who was the foreman of the grand jury that indicted these men. In the first place, two or three grand jurors, who knew Perkins, refused to return indictments because they would not believe the little scoundrel. But this man Coffin, who was a member of the committee of one hundred, and who admitted to you that he contributed money toward the prosecution of these men—he sneaked in upon this Federal grand jury and got himself selected foreman. It was this jury that returned the indictment upon which you are trying these defendants. What

do you think of that? Would you allow any such proceedings as that to go unrebuked in your county? No, indeed, of course you would not.

I am willing to stake the defense of Stephen Mattler, if he needs any, upon the testimony of Captain Charles J. Many, the brave and honest Republican trustee of this township. He says that Mattler's papers were called next after the Hisey papers, and as there had been trouble about them, he particularly examined the Mattler papers, and he says positively that he saw nothing wrong with them; that there were no changes made upon them. And yet Perkins says they were changed. Who will you believe, Perkins or Many?

It being at this time 12:35 o'clock, Judge Woods suggested that an hour's recess be taken. As soon as an opportunity was given, the lawyers and citizens present advanced toward Mr. Kern almost *en masse* to congratulate him upon the great speech he was making. Even Judge Woods came down from the bench to express his admiration of his wonderful oratory.

Half-past 1 o'clock found the court and attorneys in their places, and probably the largest audience that court-room ever contained. The fact that Mr. Kern was making a wonderful speech was talked about very generally during the noon recess, and the result was all who could gain entrance to the court-room were there, and hundreds were turned away. Mr. Kern proceeded as follows:

Before we adjourned for dinner, in speaking of Mr. Mattler's case, I paid something of a tribute to Captain Many. I like Captain Many. The more I think of him the better I like him. He was a soldier, and I think he was a good one, because he came in here and was brave enough to tell the truth, and that alone, in the case of Stephen Mattler, who was his fellow-soldier. Captain Many didn't try to make a speech to you, gentlemen, as Stubbs and Morrison did, for fear some one of these defendants would get away. He only answered such questions as were asked of him, and he answered them in a fair and dispassionate manner. Then there was General Fred Knefler—God bless his honest soul! He is a Republican, and when he said he was no Mugwump, it was with a great deal of significance that he turned and looked at Sol. Claypool. [Laughter.] He, too, said that Mattler was an honest man.

When the closing argument for the Government is made, it will be said to you: "If these defendants did not help Perkins to change these papers, who did?" That is not for us to say. That responsibility devolves upon the prosecution. If one of you were arrested for robbing a man, would you think it would be fair to ask you to bring the man into court that did it in order

to secure a verdict of acquittal? No, sir; that is for the Government to decide the case. But in this prosecution there is one man that is particularly sought after. This committee behind this prosecution would be satisfied with that one man, wouldn't they? What about the agreement made by Ritter between Perkins and the State? Do you not know Harvey Matthews, foreman of the State grand jury? He is an honest farmer and has no interest in this case. He told you that after Perkins swore that he and Coy were alone interested in changing the tally-sheets, he (Matthews) asked Perkins if that was all he knew about the alterations, and he said, "Yes, I said so." Now, gentlemen, what do you say about Perkins being a perjurer? Did he not commit foul and deliberate perjury before that grand jury when he took his oath that he would tell the truth, the whole truth and nothing but the truth? Yes, they wanted Coy, the head of the Democratic committee. They would be satisfied with him. Who is the witness who has testified against Coy? Not a soul but that besmeared villain and scoundrel.

When Sol. Claypool comes to close this case for the Government, he will say a great many bitter things about tally-sheet forgeries, but he can not say anything against such a crime so severe that I will not indorse it. When he tells you all about that just think of this, that he proposes to convict all of these defendants upon the testimony of the man that has confessed that he committed this horrible crime.

An amusing incident, to me, occurred yesterday morning in connection with this trial. Sol. Claypool is not often dramatic, but he was at that time. After that man Bradbury, who thought Perkins' character was good, notwithstanding he was a tally-sheet forger—you will remember the judge ruled that further evidence of that kind was incompetent—Claypool squared himself to the audience, and in a loud, sonorous voice, and in a highly dramatic manner, said: "All of you gentlemen who came here to testify to Perkins' good character can now be excused." [Laughter.] Now, did you notice, gentlemen, that there was not a single man with so little respect for himself that he wanted to disgrace himself? Not a single man went out, gentlemen. [Laughter.]

Turning to Sol. Claypool—Claypool can laugh now, but at that time I never saw a more doleful face in my life. [Great laughter.]

I want now to pay my respects to the circular signed by General J. R. Carnahan, chairman of the Republican committee. Here is a violation of the law, reduced to writing, to be read as jurors run. What are these defendants charged with? Inducing inspectors to part with their returns. What did Carnahan do? He advised exactly the same thing, and he was indicted for it; but has he been tried? This is the second trial of these men. Carnahan has never been asked to answer for what he did. No, and worse than that, the district attorney here, whose duty it is to prosecute him, has placed himself in a peculiar position. He has stood up here as the apologist of Carnahan. He admits that he violated the law, but thinks he made a mistake in taking an old law for the present one. He has said enough to forever

estop him from prosecuting Carnahan, and yet he has stood up here and asked that these men who are charged with the same crime be sent to prison.

I return to the case of that man who stood like the rock of ages at the head of the Democratic committee. That man who conducted the Marion county campaign in 1884 for Thomas A. Hendricks, that illustrious son of Indiana—peace be to his memory—I refer to Simeon Coy, that leader of leaders in this county—he with a big head, a big brain and a bigger heart—the man whose work was so satisfactory in 1884 that he was elected in 1886 without opposition. And yet, when Mr. Coy took his place on the witness stand, he was time after time insulted by Sol. Claypool—and even Mr. Sellers, the district attorney, sneered because he bought some wall-paper to decorate the home where his little family, his wife and child, stay. Mr. Coy is a brave and clear-headed little man. He never quails. He did not quail before any of the grand juries that investigated his case. He did not quail before the jury in the last trial. And he is not quailing before you here. He is begging nothing. He is asking no favors of you. He is simply demanding a verdict of acquittal at your hands, because there is no evidence against him. Nothing but the testimony of that scoundrel Perkins, who you can not and will not believe.

Now, a word more as to Bernhamer, and yet it is unnecessary. What did he do? Does any one swear that he had a tally-sheet on that day? Does any man swear that he was a party to the conspiracy? Perkins doesn't even testify to that. The prosecution want to send Bernhamer to the penitentiary because he carried out the rules adopted by the board. The most that can be said is that he made a mistake in his rulings, but there is no evidence that he was not honest in his decisions. If one of you were chairman of a meeting and you made a mistake in your decision, would you think it would be right to send you to prison for it?

Now, do your duty, gentlemen, when you go to your jury room. I wish I could take each of you by the hand and take you to the houses of these defendants and show you the scenes there—show you the anxiety in the souls of those women and children. If I could I know you would want more testimony than that given by a self-confessed felon to desolate them. I thank you, gentlemen, for your attention.

ARGUMENT OF HON. JOHN W. BUSKIRK.

Now, gentlemen of the jury, what are these defendants on trial charged with? Under the indictment these men are charged with entering into a conspiracy to do a certain act. What was that act? It was to forge or change tally-sheets. The court in his rulings has already said in your hearing that unless a conspiracy be proven you can not consider the testimony as to the altered papers. Now, who has sworn that there was a conspiracy? No one

but the confessed forger Perkins, and he only implicates two or three of these defendants, Coy, Mattler and Spaan. Even if he is to be believed, there are only three men that knew anything about it. But, gentlemen, you will not believe this self-confessed villain, Perkins. The fact that Perkins may have told the truth with reference to certain things that occurred, is not a corroboration of his testimony by any means, as is claimed by the prosecuting attorney. It shows that Perkins had a guilty knowledge of everything wrong that was done on that memorable 4th day of November, but it in no way corroborates his implication of the defendants here on trial.

The prosecution wants you to believe that Mr. Henry Spaan is a perjurer and a forger of election returns, because he gave his honest opinion to the board of canvassers on that day. Mr. Spaan has given you frankly and in detail all his connection with that board. He was simply there in the interest of three Democratic officers. The opinion he gave there he read from a legal pamphlet containing the election laws of Indiana.

Now, do you believe it possible that a man as smart as Mr. Coy, and Mr. Spaan, a learned and able lawyer, Mr. Beck, another leading attorney, Mr. Bernhamer, who also has some knowledge of the law, and Mr. Sullivan, an intelligent gentleman, would have been guilty of so clumsy a job as this was? No men as smart and experienced as these defendants would have attempted such a bungling piece of work as this. Then, according to the argument of Mr. Sellers, five tally-sheets were altered after enough votes had been changed to elect Ayers. Were these men such fools as to accumulate unnecessarily a great mass of evidence against them? I don't believe it, and I don't think you do. There are some papers that are changed now that were not known to be changed on the night they were canvassed. Now, I want to disclaim any intention of casting any reflection on the officers of this court, as I do not for a moment believe that the clerk, or any one connected with him, knew anything about any alteration; but there was a man who was and is interested in this prosecution who was allowed to carry these papers from this building and bring them back in the afternoon, who did have opportunity to do what he pleased with them.

Gentlemen of the jury, I want to call your attention to the Mattler papers, and in the beginning I desire to say that if it appears that these papers were not changed, or changed back before they reached the canvassing-board, then it is fair to say that improper means have been resorted to in order to get evidence before you against these defendants. If you find that Perkins has lied about the Mattler papers, then can you believe what he said about Hisey's papers? If the principal witness here knowingly lied about one of the most important features of this case, then this self-convicted felon is not worthy of your belief in this particular. It will be rung in your ears in the closing argument to watch these papers as Mattler is a saloon-keeper, but you will not hold such a statement as that, as I think we have conclusively shown that whatever his business he is an honest man. Gentlemen, there has been a good deal of politics brought into this case, but we are not obliged to rely on

political friends alone. You have the positive testimony of Captain Many and ex-clerk M. G. McLain, both prominent Republicans, that when the Mattler papers were presented to the board there was no appearance of changes. I look upon this as one of the most important features of this case. I repeat that this testimony of Many and McLain shows conclusively that improper methods have been resorted to by somebody for some reason or other to secure the conviction of these men. *

I come to the Schmidt papers. The learned prosecutor says everything goes to corroborate Perkins. There has been a good deal said because Bernhamer, as chairman, did not send for Schmidt's inside papers, and yet the prosecution says there was no doubt about the law. If there was no doubt, why did not Schmidt go and get his papers himself? There was Elam and Griffiths, Republican lawyers, who said that was the law, and there was McLain, the Republican clerk, who had the custody of these papers. Was here any reason why they could not have produced the papers if there was no doubt about the law, as the prosecution says?

A great deal is said about Bernhamer's action here. Bernhamer is denounced as a great conspirator, because he did not send for these papers. Why, Perkins, the perjured villain, in no way connects Bernhamer with this conspiracy. Perkins says the conspiracy was not born until in the afternoon, and Bernhamer had then been acting as chairman for several hours, and there is not a word of evidence from any witness that Bernhamer talked with any of these defendants or advised with them about any matter after taking his seat. The statements of Perkins are in no way corroborated, except as to one fact, and that is that he committed this great crime himself. The prosecutor has taken particular pains to argue to you from his standpoint how Perkins is corroborated, and he utterly failed to point out to you the particulars in which this perjured scoundrel contradicted. In the first, Smith Myers says he was not in room 59 at all on that day, while Perkins says he was. Then he is again squarely contradicted by Daniel Burton; but the prosecution put on the stand this man D. W. Coffin, foreman of the grand jury, to dispute honest Dan. Burton. And who is Coffin? A man who acted as foreman of the grand jury, when he had contributed money to prosecute the defendants—a man acting as prosecutor and juror at the same time. What do you think of him, gentlemen of the jury? Who will you believe: Dan. Burton, an honest man, who has not the slightest interest in this case, or this man Coffin?

Another man who squarely contradicted Perkins is R. F. Stewart, post-master inspector. D. N. Berg, another man wholly disinterested in the case, swears that Perkins lied. Does the fact that the crime was committed overcome all these contradictions?

Now I come to the contradictions by interested persons. In the first place, Henry Spaan denies the conversation Perkins says took place between them. Dr. Metcalf denies having had any connection with Perkins' acid. Then there are John E. Sullivan, the county clerk; John L. Reardon, Albert T.

Beck, George W. Budd, Stephen Mattler, Wm. F. A. Bernhamer. These men, it is true, are charged with this crime; but Perkins, according to his own admission, is guilty of this crime. Who will you believe? What kind of a man is this Perkins? Why, he admits that he is a forger—has interfered with the ballots cast by the voters of this county. He is conclusively shown to be a liar in this case. On the other hand, the defendants have all proven good characters by the best citizens here, notwithstanding the prosecution has undertaken to slur them by intimating they are not worthy of belief.

The closing argument in this case will be made by Mr. Claypool, and he will claim for the purposes of this argument that he is an honest man. But I care not about that. He is a lawyer, and he is trying to convict these men by corrupt methods. I care not how honest Claypool may claim to be, the instruments he is using in this case are foul and corrupt.

I thank you, gentlemen, for your attention, and I leave the case with you, believing you will acquit each of these defendants.

CHAPTER VII.

THE SECOND TRIAL.

IT was on Monday morning at 9 o'clock on the 16th day of January, 1888, that the second famous trial commenced. At the first trial ten of the defendants were tried, Perkins, the odd number, having plead guilty. On this occasion only four of the defendants were to be tried, namely, Simeon Coy, W. F. A. Bernhamer, John H. Counsellman and Henry N. Spaan. Promptly at the hour named attorneys, witnesses and defendants were on hand.

As in the first trial, the court-room was crowded with anxious spectators, while the lobbies of the postoffice building were filled with people who were unable to gain access to the court-room. The court had ordered a special venire of forty men to be drawn, from which a jury of twelve men had to be selected to try the case. About two hours were consumed in securing the jury, which was composed of the following named persons:

James B. Curtis, Jennings county.
William H. Bunger, Ohio county.
Robert Dunlap, Jefferson county.
James Peters, Perry county.
Jacob Corbener, Marshall county.
Albert Messick, Henry county.
Frederick Berkey, Washington county.
Simon Dickerson, DeKalb county.
John F. Schroder, Ohio county.
John L. Davis, Montgomery county.
Jesse Brumback, DeKalb county.
Robert Denton, Sullivan county.

The jury was composed of seven Republicans and five Democrats, but out of the five who were said to have been Democrats, there was but one who had any standing as a party man, and he was getting old and feeble and in this condition it could hardly be expected of him to hold out against the vigorous and partisan opposition that would be brought to bear in order to secure my conviction. After the jury had been accepted they all stood up and were sworn to do their duty by United States Clerk Butler. The Court then instructed the jury as to their duties. It will be remembered, in the first trial, that the jury was kept together and not allowed to separate, but were to sleep in the court-room and to always be in charge of a bailiff. This jury, however, were allowed to go where they pleased when not in the jury-box, there being no special restriction placed upon them. The hour having arrived the court stood adjourned.

Judge Woods then ordered the counsel, witnesses, defendants and jury to be on hand promptly at 9 o'clock the next morning, at which time counsel for the Government and the defense would make their opening arguments.

On Tuesday morning, January 17, at 9 o'clock, Judge Woods opened the district court for business. Emory Sellers made the opening argument for the Government and

Judge Cyrus F. McNutt for the defense. Almost the same ground was gone over as in the former trial. Henry N. Spaan had asked the court for a separate trial, which was granted; therefore, there remained only three defendants at the present trial. The first witness introduced by the Government was County Auditor Thomas Taggart. He was called to identify the records of the board of county commissioners of Marion county in regard to the appointment and names of the inspectors of the respective precincts in the county and city.

The prosecution having introduced all its witnesses, it now remained for the defense to introduce theirs, which were the same as in the former trial, with the exception of one witness, R. F. Stewart, connected with the postoffice department, who testified to a conversation he had with S. E. Perkins, in which he (Perkins) said that he had done more and risked more for the Democratic party than he would ever do again. Witness asked Perkins if he had anything to do with the tally-sheet alterations. Perkins replied, "I do not know what others did, I only know what I did myself." This witness had known Perkins for ten years. This closed the evidence for the defense. It now remained for the counsel for the Government and the defendants to make their closing arguments. Emory Sellers opened for the Government and Judge Solomon Claypool, as in the former trial, closed. John W. Buskirk made the first speech for the defense, and he was followed by John W. Kern. The closing argument for the defense was made by Judge Cyrus F. McNutt. Judge William A. Woods then followed with his usual charge to the jury, and on the evening of January 27th the jury retired to deliberate as to their verdict, and remained out until Saturday evening, January 28, at 7 P. M., when they brought in a verdict of guilty.

Hundreds of people had been waiting in and around the postoffice building for news. About 6 o'clock Saturday

evening a dispatch was handed Judge Woods for Albert Messick, one of the jurymen, containing the information of the death of his mother. This dispatch was at once sent into the jury-room by Judge Wm. A. Woods. I do not believe that any impartial or fair-minded judge would have allowed such information to have been sent into a jury-room.

When I learned that this had been done, I immediately went to the hotel for supper, feeling convinced in my own mind that a premature verdict would soon be reached, and it was while sitting at the supper table that the fact was brought to me that the jury was ready to return a verdict and that my presence was desired at court. I asked my informant if he knew whether I had drawn a prize. He whispered in my ear that he thought I had. I told him to go at once to the court-room and inform the officials that I would be in the presence of the court to hear the verdict as soon as I had finished eating my supper.

On my way from the Grand Hotel to the Government building I met hundreds of anxious friends who were fearful of the result of the verdict, and advised me to flee. I told them in the first place I was not guilty, no difference what a jury might bring in, and in the second place I was away from the court officials on my word of honor, and rather than break faith with men who had reposed such confidence in me, I would return to their custody, no difference what might be the result.

It was almost impossible to get to the court-room on account of the immense crowd that had gathered, but I finally succeeded in reaching it, where the judge and jury were waiting, and in a few minutes the foreman of the jury handed in a verdict of guilty as to W. F. A. Bernhamer and myself, Stephen Mattler, the other defendant, being acquitted. I at once went to the hotel in company with my counsel, the court having granted such permission. We were accompanied by Deputy United

States Marshals Chris. H. Stein and Charles B. Taylor. My counsel at once commenced gathering information upon which to make a motion for a new trial. Abundant proof was obtained, supported by affidavits, showing that undue influences had been used on the jury to bring about a verdict of guilty. It was shown by the jurors themselves that it was a compromise verdict. These men were sworn to bring in a verdict according to the law and the testimony, but a compromise verdict is no verdict at all, or it is a verdict that outrages all sense of justice. It was a shameful travesty of justice and a more disgraceful proceeding was never heard of—where jurors admitted that they had been duped to bring in a verdict of guilty.

Several of the jurors said that all of the jury had agreed to set aside the evidence of Perkins as unworthy of belief. Then, if it was true that they did not believe Perkins' testimony which was not supported by a single witness, but, on the contrary, was contradicted by seventeen different witnesses, and it was also shown that he had committed perjury, either before the county grand jury or the Federal grand jury, now, with these facts before the jury, I leave it to my reader to judge if there was any evidence sufficient to justify an honest jury in bringing in a verdict of guilty.

On the 2d day of February a motion was made for a new trial, which was at once overruled by Judge Woods, and we were ordered to appear in court on the 3d day of February, 1888, to be sentenced. My attorneys then prepared the necessary papers and presented them to Walter Q. Gresham, judge of the circuit court, residing in Chicago, who referred the whole matter to Justice Harlan, who sustained the decision of Judge Woods. My attorneys made the necessary preparation, and had the whole matter referred to the Supreme Court of the United States, but the only question that was raised there was the sufficiency of the indictment. The records of the lower courts

were never presented to the supreme court. I have always believed that if the records of the lower courts could have been gotten properly before the supreme bench they would have granted me a new trial. On February 7th I was transferred from the hotel to the Marion county jail and placed in charge of those two genial deputy sheriffs, Timothy Clark and Robert Emmett. During my confinement in jail I was visited by thousands of my friends from different parts of the State, who made my sojourn there of three months pass away very rapidly and pleasantly, aided by the kind attention shown me by Sheriff Isaac King and family.

The professional juryman is a strange animal. He has ways and habits of his own. I have already referred to him elsewhere in this book. My present purpose is to refer more particularly to my personal experience with this dangerous, degenerate and despicable class, some of whom were numbered with the jury that tried my case in the Federal court and succeeded in securing my conviction. The court had ordered a special venire of forty men, from which to draw twelve men, honest and conscientious jury-men, to try my case.

Most of these forty men were of little consequence, no matter how you estimated them. A few of them had fair records as citizens, but as a general thing they were muggumps in politics, morals, religion and conscience. They were for sale, or worse still, if possible, their ignorance and prejudices could be played upon by any designing scoundrel, and a verdict obtained without regard to law or evidence. The few men included in the forty, who had any reputation for business standing, were at once challenged by the Government attorney, and as a consequence the defense had to accept men the Government had selected to do the dirty work of the prosecutors and persecutors. There was, I think, one exception. I refer to James Peters, of Perry county. Peters had the reputation of being an honest man. His honesty, however, was of little

consequence. This man Peters also had some courage, but it was of a compromising character, and fizzled out at a time when it should have been most conspicuous. He held out for thirty hours, and then surrendered his convictions to those who, with blood-hound instincts, had followed me through my every lane and avenue of life, bent on my conviction. In the jury room these hounds were led by one John L. Davis, the foreman of the jury, and who hailed from Montgomery county.

After the verdict had been rendered against me, affidavits were made by James Peters and other members of the jury charging John L. Davis with having represented to the jury that he was authorized to say to the jury if a verdict of guilty was rendered against me that the sentence of the court would be a mere nominal fine without imprisonment, and by such representations he secured the vote of James Peters and other members of the jury. The circumstance indicates clearly the methods resorted to to secure my conviction. If Davis, as he said, was authorized to make such representations to the jury, it shows that Judge Woods or Emory B. Sellers, or both of them, were parties to the fraud, that they conceived the vile scheme to secure my conviction. That they were capable of concocting such a scheme I do not doubt, but if they were not guilty of it, then the representations of Davis were false. He represented to the jury that it would be far better to bring in a verdict of guilty and have a nominal fine assessed without imprisonment than to have the jury disagree, thereby making another trial necessary, which would entail financial burdens upon the defendants. It will be readily seen how such representations could be made to influence honest but ignorant men to do an infamous act under the impression that it was right and proper.

That the reader may see at a glance how one poor deluded man, who had voted "guilty," was influenced, I here introduce a letter, written and addressed to Judge Woods,

setting forth the conscience-stricken confession and pleadings of James Peters. No honest man can read it without a shudder. Mr. Peters wrote to Judge Woods as follows:

INDIANAPOLIS, January 29, 1888.

HON. W. A. WOODS, *Judge District Court United States,*

HONORED SIR: I feel an inward compulsion in the matter of the verdict given by the jury of which I was a member, in case of the United States against Coy, Bernhamer *et al.*, to appeal to your clemency in making up your sentence upon our verdict. Your charge was so we drew the inference from it that the penalty to be imposed would be a light one—barring imprisonment in the penitentiary. This was the sentiment of every individual juror in said case, and upon that faith the verdict was rendered as aforesaid. This was one of the causes of our finding. No agreement would have been had had it not been for the assurance that the expenses, trouble and fear of the defendants, with a nominal fine, would be a sufficient punishment for their misdeed, and prevented from acting likewise in the future.

I would not sleep soundly—and I believe I but voice the sentiment of every juror—were I to feel that I have been instrumental in sending those men to prison, disgracing them and their families forever. Hence, dear Judge, let justice be tempered with mercy and leniency upon the facts given you.

Believe me yours very respectfully,

JAMES PETERS.

There was also a petition prepared and signed by six of the jurors, but I secured the petition and the original letter of Mr. Peters and would not permit either to be presented to Woods, and still have them in my possession. My reasons for this course were, that I felt convinced that my conviction had been agreed upon by the committee of one hundred, aided by a partisan judge, and that nothing could change the programme. I knew that my doom was fixed, and I did not propose to place myself in a position to have it said that I had begged this gang of partisan hyenas for any leniency whatever.

There was on the jury one other man whose name I do not make public, because imprisonment for life would not reduce me to his degraded level, and because, vile as he is, he has a family whose feelings I respect. This United States juror, charged with the solemn duty of hearing evi-

dence and of rendering a verdict, was no sooner in Indianapolis than he was taken in hand and steered to a bagnio where he remained in the embrace of sin and whisky during the night. From the den of prostitution this United States juror made his way to his hotel. Beslimed and debauched, this juror was in a condition to be "fixed," and the Republican jury-fixer was on hand. I would have the reader contemplate the "fixer" and the man to be "fixed." The juror had awakened from his night of debauchery. As he thought of his family burning shame mantled his face. Doubtless he asked himself, "Will my wife and family, my neighbors and friends, ever hear of my crime against all things decent and manly?" This was the time for the "jury-fixer" to put in an appearance. The juror having cleansed his hands and face, and in company with his bagnio companion of the male persuasion was eating his breakfast. The jury-fixer was one of his brothel companions, they had spent the night together in a house of ill-fame, and the juror realized that the price of secrecy was to do the bidding of the jury-fixer, who blandly intimated to his victim that he had tried to entertain him as well as he knew how, and then informed him that he wanted a favor of him when on the bench as a juror in the tally-sheet case, and that was to vote for Coy's conviction. Coy was represented as a bad man in true Republican style; and then said the jury-fixer, "I want you to bring in a verdict of guilty and put him behind prison bars." The juror was then and there fixed. He dared not refuse the jury-fixer. To do that was exposure, and rather than be exposed he consented.

This juror "fixer" was a blind Republican partisan. His work to injure me was inspired by his devotion to the Republican party. The way he performed his task, I have told, and it comes from his own lips. This jury-fixer, it seems, contemplating his infamous work, became conscience stricken, and went to Col. George Bunting and

made a full confession of the part he had played to bring about my conviction. Bunting told him he had better go to the jail and tell Coy what he had done. He did visit the jail and introduced himself to me, and told me he had done me great injustice and perhaps had been the cause of my conviction, and that he stood ready to make any amends in his power, and that he hoped I would forgive him. Tim Clark, who admitted him to the jail, is now dead, and can not bear testimony to the truth of my assertions; but Col. George Bunting and family are living, and I refer to them for the absolute truthfulness of this wretched piece of business. I doubt if in the records of the courts of Indiana anything approximating the facts relating to the means and methods employed to secure my conviction can be found.

But the infamous record is not yet complete. Affidavits were made by members of the jury to the effect that whisky was smuggled into the jury-room and freely used by the jurymen. Why not? From first to last my prosecutors and persecutors were drunk, blind drunk, with malice. Reason was dethroned. The committee of one hundred were drunk with passion, why not let the jury get drunk on whisky?

All these infamous means, except the "jury fixer" affair, were put in the form of affidavits. My attorneys made application for a new trial before sentence was passed, and these affidavits were made a part of the record, together with many other reasons for a new trial, which any fair-minded judge would have considered, and they would have been regarded as sufficient cause for a new trial. The judge flatly refused to listen to any reason whatever for a new trial, and gave notice that sentence would be passed on the 3d day of February, 1888.

The court, in passing sentence, said, "Mr. Coy, I understand that you are comparatively a poor man. I will fine you \$100 and costs and sentence you to eighteen months

imprisonment." Then turning to Mr. Bernhamer, said, "You are represented to be a man of considerable property. I will therefore fine you \$1,000 and costs, with one year's imprisonment."

We were both indicted for the same offense and convicted on the same charge, and I received an extra sentence of six months for being poor.

I deem it proper to say, just here, that the day before the first trial the proposition was made to me that if I would plead guilty, I would be let off with a fine of \$1,000. Four others of the defendants were also to be let off upon the same plea with a fine of \$200 each, and the indictments against the rest of the defendants were to be quashed and their cases dismissed. I at once called a meeting of my attorneys and informed them that under no circumstances would I accept such a proposition, that so far as I was concerned I was not guilty of any crime, and that I did not propose to plead guilty, that if they got me into prison it would be by the votes of twelve men.

I make no pretensions to sanctification, and still I do not bear malice toward the partisan scoundrels who worked for my downfall. They doubtless believed that my conviction would have some political significance in the next presidential campaign, and that was enough to inspire them to put forth all their energies.

I had known Emory B. Sellers for years, and I had a right to expect at his hands a fair trial—fair play. That was all I asked—that I did not obtain.

Having performed the work to the satisfaction of the Republican gang, Mr. Sellers promptly resigned and, upon a flimsy pretext, went home to give a Republican a chance to try the army of Republican criminals caught in every species of election frauds known to the law. With Sellers out of the way, the office of district attorney was tendered to Hon. Leon O. Bailey, and then the Republican press throughout the State denounced Mr. Bailey as a bitter par-

tisan, and therefore not worthy to hold an office as a Democrat under a Democratic administration. Mr. Bailey's name was finally withdrawn, and that of Judge Solomon Claypool presented by the President. During my entire trial the Republican press and the Republican stump orators of high and low degree had been patting Mr. Claypool on the back, and praising him as one of the greatest and purest men in the State, but as soon as his name was presented for the position of district attorney the entire Republican gang denounced him as unfit for the position. But in spite of their denunciations Mr. Claypool did act as district attorney, with Mr. Bailey as assistant. It was through the efforts of these two officials that more than two hundred indictments were found against violators of the election laws. The indictments were drawn under the same statutes and in the same form as those used in the tally-sheet cases, and which was held to be sufficient in the Supreme Court of the United States in my case. The court, however, construed the indictments in a way to allow every one of the guilty Republican ballot-box stuffers and vote-buyers to escape just punishment.

It was after the first trial, in which the jury had disagreed, that I was renominated by acclamation and again elected to the city council for the fourth time.

After my second trial, in which the jury brought in a verdict of guilty, and after sentence had been passed upon me by the court, a motion was introduced in the city council by Calvin Darnell, a Republican member, to expel me on the ground that I had been convicted in the United States court. Under a rule of the council the motion was referred to a special committee of three. A committee was selected, composed of two Republicans and one Democrat, with instructions to report at the next regular meeting of council. I was then notified to prepare for trial. The special committee met and recommended to the council that I should be expelled. This recommendation was signed by

a majority of the committee. Councilman Thomas Markey, the Democratic member, brought in a minority report on the evening set by the council for my trial.

The council chamber and the lobby of the court-house were filled with citizens, all anxiously awaiting the result. Promptly at 8 o'clock P. M. I appeared in the council chamber, accompanied by Deputies Timothy Clark and Robert Emmett, of the sheriff's office. I then informed Mayor Denny, the presiding officer, that I was ready for trial.

Several Democratic lawyers kindly volunteered their services to act as my attorneys, but I respectfully declined their services, and told them that I intended to make my own defense. The city was represented by Attorney Wm. A. Taylor, who submitted as evidence the records of the United States court.

I then took up my case and made a full statement, commencing with the beginning of my trouble at the canvassing-board on the 4th day of November, 1886, and went over the entire ground, covering every point. After I had concluded my review of the case, and a few short speeches by members of both political parties, the report of the committee was finally taken up and voted upon, which resulted in fifteen (15) Republicans voting for expulsion and nine (9) Democrats voting against it. I declined to have my vote recorded, having the necessary number of votes to defeat their object, it requiring two-thirds of all the members to expel me. I then returned to the jail with my two escorts, and during my sojourn in the Northern prison I still retained my membership of the city council, and any duty that devolved on me as the representative of the Eighteenth ward was looked after by my party colleagues in council.

CHAPTER VIII.

THE THIRD TRIAL.

ON May 1, 1888, the third and last trial of the celebrated tally-sheet cases was begun before Judge Woods. The names of the indicted men were as follows: John E. Sullivan, John L. Reardon, John H. Counselman, Dr. C. N. Metcalf, and George W. Budd.

At the hour appointed, these men were in attendance with their attorneys, viz: Cyrus McNutt, J. G. McNutt, John W. Buskirk, John W. Kern, and Judge Montgomery, of Lansing, Michigan, the latter gentleman appearing for Dr. Charles N. Metcalf.

It was apparent to those familiar with the two preceding trials, that the public had lost all interest in the matter. Aside from court officials, lawyers and their clients and the witnesses in the case, there were scarcely a half-dozen persons present.

The intense anxiety to convict me had been gratified. Personal and political malignity had, in a measure, been satisfied. The committee of one hundred, having had its vengeance fairly appeased by my conviction, like an anaconda with a buck in its stomach, resigned itself to quiet and self-gratulations. Hound and cur of low degree had been called off. Coy had been convicted. Funds were low. Perkins had joined the Republican party; and though the judicial firm of Woods & Co. had not been dissolved, it seemingly carried less hate pressure than formerly. At any rate, the judicial farce had lost its drawing power, and except in a few instances, only those attended the show who had business to transact. As a result, little time was expended in finding a jury, and during the first afternoon set for the trial a jury was empanelled, as follows:

William Nelson, of Parke county.

J. W. Devore, of Owen county.

Alexander Crunk, of Posey county.

James Clugston, of LaGrange county.

John Q. Thing, of Knox county.

N. C. Gibson, of White county.

J. Mat. Monical, of Morgan county.

George Alspaugh, of Henry county.

Harry Henry, of Switzerland county.

Nathan Smith, of Monroe county.

Harvey B. Sparks, of Dearborn county.

John Marsh, of Jefferson county.

Politically, the jury stood eight Democrats and four Republicans, and were citizens above the average in point of intelligence; and being duly sworn, commenced listening to the old story, rehashed, but, with rare exceptions, following along in the same old rut. The examination of witnesses required about the same length of time as in the two former trials, though the witnesses having become familiar with their testimony, some expedition was noticeable. This wearisome ordeal over, some time was given to the lawyers to prepare their notes, and then the work began in earnest to enlighten the "gentlemen of the jury."

The counselors for the Government sought to earn their money by obscuring facts, and by giving special prominence to the utterances of a perjured villain and a confessed felon, and when the attorneys for the defense began their work it was shown that Indiana had been sufficiently disgraced and not a conviction was had. Perjury, for once, was at a discount, truth was relieved from its tortures, and justice, dethroned and trampled upon by those whose duty it was to exalt it, at last gave the people of Indiana and the country hope that political hatred would not always be permitted to disgrace the courts of the Republic.

Judge Woods delivered his usual charge, which was

brief, as compared with his previous mouthing upon the same matter, and the jury took the case.

It would be folly to say that the defendants were not solicitous as to the verdict, but it was nevertheless true, that their anxiety was not crushing. They felt, as did all honorable men, that political malice had sufficiently degraded the national judiciary, and that unless perjury was to have full sway and justice was to be forever exiled, the time had come to call a halt.

The jury was out deliberating for a few hours when a verdict was rendered acquitting Dr. Charles N. Metcalf, John L. Reardon, John H. Counselman, and stood nine to three for the acquittal of John E. Sullivan and George W. Budd.

This ended the third and last trial of the famous tally-sheet case, and Judge Woods having exhausted his stock of quibbles and stratagems, and every artful device he could command, and having won for himself an eternity of odium, dismissed the indictments against John E. Sullivan and George W. Budd.

I had remained in the Marion county jail after I had received my sentence until the termination of the third trial. Will F. A. Bernhamer had been taken to the Northern Prison, but was brought back, May 5th, to testify in the third trial of the tally-sheet case. During my confinement in jail, my case had been taken to the Supreme Court of the United States, and the proceedings in the lower court were finally affirmed by said court, Mr. Justice Field dissenting. The only question presented to the supreme court related to the legality of my indictment, and I do not doubt, had all the questions, together with the record of the lower court been presented, its decision would have been favorable to me.

From November, 1886, to May, 1888, I had been almost continuously in the State or Federal courts fighting for my liberty, and finally, when the highest court in the land had

passed upon my case and had said that I must go to prison, I surrendered to the edict, and knowing myself to be innocent, and that I had been convicted by the testimony of a perjured villain and a confessed felon, and to appease the vengeance of men who are fit companions of Perkins, I did not realize the humiliation that my enemies expected. No one, I presume, goes to prison cheerfully, but the sense of degradation which guilt inflicts was not felt by me, and thus, while my political enemies rejoiced in my downfall, I was sustained by the reflection that a time would come when, in Indianapolis, a verdict would be rendered by the people which would vindicate me.

On Friday, May 17, 1888, at high noon, in company with Will F. A. Bernhamer, under the escort of two United States marshals, I took my departure from the Marion county jail for the Prison North *via* the Monon route, which is considered the surest, safest and most direct route to Michigan City. The journey was pleasant throughout and we were greeted at every station by warm friends who understood the situation and who knew to what an alarming extent justice had been debauched that I might be made to suffer.

We arrived at our destination at 6 o'clock p. m., and went at once to the Hotel de Murdock, otherwise the Northern Prison. We were at once ushered into the private office of the deputy warden, where we presented our credentials, which were examined, and the official being satisfied with our recommendations we were at once shown to the bathroom that we might prepare our toilet for further attentions and courtesies. We were informed by our attendant that the hotel kept regulation suits for its guests, and we at once proceeded to array ourselves in garments something after the style of Joseph's historic coat. After this exchange of costumes we returned to the office to be further instructed in the mysteries of the institution, and were then escorted to a palatial building known as the cell-house. This build-

ing, I should say, is modern in style of architecture—free from the gewgaws peculiar to all the ancient orders. The building is constructed for repose and meditation. It is a succession of dormitories, and there, shut in from the world and the flesh, if not from the devil, the inmates may, if they choose, wrap their blankets around them and lie down to dreams.

It has always been my custom through life to go cleanly and smoothly shaven, and this, of course, in my case, enabled me dispense with the services of the tonsorial artist of the institution. After our toilet had been completed, I was approached by a colored gentleman in regulation costume, whom I afterwards learned was Tom Holmes, and who had spent the greater portion of his life in penal institutions, and informed that my supper was ready. This was my first repast as a prisoner, and though the viands were not the most costly nor such as to enrapture an epicure, the meal was enjoyable and refreshing. From the supper table I was kindly escorted to my dormitory, cell No. 76, on the ground floor. At 9 o'clock P. M. the prison bell rang out the signal for the guests to retire, to which I responded with becoming alacrity. The lights were out, and tired nature found rest in sleep. The next morning at 6 o'clock a steam whistle gave the signal for the guests of the hotel to arise, dress and prepare to march into the large dining hall for breakfast, from which they go to their daily tasks in military order, each line under the escort of a guard. But I returned to my sleeping apartment to await orders, and at 9 o'clock I was ordered to the deputy warden's office to be fully instructed as to my duties during the time I was to be the guest of the institution. The deputy informed me that I was to be assigned to the hospital for duty, and that the prison physician would instruct me as to my duties. This done, I was shown into the guard-room to await further orders.

CHAPTER IX.

WHEN all the privileges of citizenship had been taken from me, and I stood arrayed in the garb that stamps all prisoners, be they good men or bad, innocent or guilty felons, I felt keenly and fully the bitterness of the enmity I had engendered in the minds of my political opponents. The truth or falsity of all I had previously heard or read of convict life was to be tested in the long months that stretched beyond. No man who has not occupied a position similar to mine, at this time, can have any true conception of the thoughts and feelings that came over me. The gloomy, forbidding surroundings, the depressed and seemingly hopeless melancholy that each face that came under my observation wore, the stern, sharp orders of the guards, and the submission and prompt obedience that was accorded them, served to pointedly mark the distinction between a citizen and a convict, and I confess that I had grave forebodings, when the thought that for eighteen long months I must be one of these poor devils, belonging body and brain to the State; must obey without question all orders, and lead a life restricted by rules that are of a necessity stern and severe.

These and kindred thoughts occupied my mind as I stood in the guard-room awaiting the orders relative to my occupation, and when I was taken by the doctor to the hospital and duly installed as steward of that portion of the great institution, I felt much relieved, knowing that in this position I would have a valuable opportunity to closely study the inhabitants of that little world, shut off, as it is, from all society and pleasures of a free life.

Of my duties in the hospital I need say little. They were preparing medicines, etc., attending to the wants of the patients, and making myself useful generally.

Thus my life as a prisoner began, and day by day, as I observed the many phases and workings of convict life, I began to feel an interest in the histories of the inmates, and many weary hours were enlivened by the stories told me relative to their crimes and adventures.

Among the most interesting prisoners are the "lifers," those who are serving a life sentence. Some of them have been confined so long that all realization—almost memory itself—of the outside world is effaced, and yet they cling with a hope so strong and pleasing of being pardoned some day, that it is almost painful to listen to them. That many of them are truly reformed I do not doubt, and in many cases really deserve clemency, and no person cognizant of the changes wrought by long years of imprisonment upon the human mind, can doubt the fact that it teaches a lesson of self-control so stern and bitter, that no man who has undergone it is in danger of giving free run to his temper or passions when he has left such a life behind him. Instances of this I have seen daily. Men whose lives prior to their imprisonment were a continual brawl, ending at length in the crime that sent them to spend the rest of their days in prison, have grown to possess a patience and self-control unknown to the outer world. And it is my purpose to mention a few instances of this kind that have come under my notice.

I will take first the life of Buell R. Webster. In 1869 he was tried and found guilty of murder and sentenced for life. For over twenty years he has patiently borne his burden, and in a quiet, manly way, has won the good will of every officer and convict with whom he has come in contact. Of his guilt or innocence, it is not my province to speak, but surely a third of a life-time spent in prison, cut off from friends and fireside, working manfully, bravely on, day after day, should be ample atonement for any crime committed in the wild days of his youth. Many efforts have been made to obtain poor "Dick's" pardon, but a feeling of malice and a desire for vengeance still lingers in the

hearts of those who were effected by his crime, and some of these, implacable, unforgiving and maybe unjust people, always step forward to knock from the poor fellow's hand the cup of happiness and liberty, just as his hopes are strongest. Still he sees in imagination the free, green fields, the sparkling streams, and all the delights that freedom brings. He is an old man now, and in the course of nature his race must soon be run, and it would certainly be no reproach to Governor Hovey to grant him a pardon, so that the last years of his lonely, barren life, might be spent beyond the frowning prison walls.

Another prisoner whose history is sad and full of interest is Charlie Carr. In 1870 he, with a companion named Brooks, entered into a plan to despoil a store. Both were mere lads, Brooks, however, being the oldest and beyond doubt the wildest of the pair. That nothing but the robbery was premeditated is beyond question, but, like many more of the unfortunates confined within the walls, one evil step led to results as terrible as they were unexpected. The owner of the store discovered them in the act of robbery and resisted. There was a fierce struggle and a fatal blow was struck that put an end to the owner's life. Some weeks later Brooks and Charlie were arrested, and after a tedious trial, were found guilty, Brooks sentenced to death and Charlie to imprisonment for life. Brooks died upon the scaffold and Charlie, still a mere lad, began his sentence. He has spent eighteen years in prison, and is remarkable for the fortitude with which he has borne his punishment. In the long years that he has been a prisoner his record is not more than twenty days on the sick list. By all odds he is one of the brightest, brainiest men confined within the walls of the Michigan City prison.

Another feature of Carr's case that should be mentioned is the heroic devotion of his aged and widowed mother. Beginning with the late Governor Hendricks, the devoted woman has patiently and persistently given her life and

means to securing her boy's release, and so many extenuating circumstances attach to his crime it seems strange her labor has gone unrewarded. Governor Williams would have pardoned him but his death interfered. Governor Gray made many remarks hinting of his intention of so doing, but Carr is still a prisoner, still wearing out his brain and body in a felon's garb, but still strong and brave in the hope that some day his mother's dearest hope will be fulfilled and to him will come the pleasure of soothing her last years upon earth. When he speaks of this there is a strange softness in his eyes, and the hard lines that trouble has traced in his face relax, his voice sinks, and one can see that beneath the striped coat there beats a heart full of tenderness and love for the one friend his life has held.

There are many, many more poor fellows serving out a life sentence, but the hopes and longings of one are a fair type of all. I might write many pages on this class of convicts, many of whose names are familiar to the reading public, or were at one time.

Notably, there is John Kennedy, who killed a man in Indianapolis nearly fifteen years ago. In addition to John's great misfortune in being confined in the penitentiary, he has had difficulties and trouble enough from other sources to kill an ordinary man, but he is far above the average in courage and endurance, and long years ago, when he first entered the prison, he displayed the former trait in leading one of the most daring attempts to escape that has ever transpired in that place, where such events were at one time of common occurrence. Had his companions possessed the stamina and judgment he displayed, one of the greatest prison breaks on record would have been successfully carried out, but they failed him in the hour of need and he fell with a bullet through his neck, only escaping death by a miracle. That was years ago, however, and he has grown older and wiser since, and much of the hastiness and rashness of his younger days has left him.

Among the other "lifers" there is none who excites more comment than "Old Bob." He has probably forgotten long ere this that he is on the prison records as William Robinson. Just after the war, when the prison was a mere stockade, "Whin," as the veteran keeper, Thomas Corbett has been heard to remark, "the stroiped divils wor lavin' us ivery day," "Old Bob" came. Not "old" Bob then, but a young, good-looking man, straight and tall, strong and willing, he proved an exception to the reckless rascals who formed the nucleus of the present great institution. Even then he was looked upon as a "trusty" man, and the reputation has been his up to the present time. In fact, it is told of this singular old character, that he has been offered his liberty more than once but refused the boon with contempt. Be that as it may, it is certain that no other life would suit him so well, no other home shelter him as pleasantly as does the grim prison-house. Bob's days slip by unheeded and unmourned by him, his only duty is the care of the warden's cows; this performed, Bob with his dog at his heels hies away to visit his traps and hunt. He is quite a Nimrod and has given to another "lifer," John Campbell, enough animals to stock a museum, such as coons, squirrels, crows, an owl, rabbits, and a specimen of nearly every denizen that is to be found in the woods of Northern Indiana.

There are numerous other curious characters among the life men, some of whom have been in prison over twenty years. Among the veterans may be enumerated Jim McCulloch, George Stottler, Bill Lee, "old man Wall," a colored preacher, who being interrupted in his prayers by a profane neighbor, arose in his wrath and smote him, and he died. Poor old Wall, his punishment has been heavy, but he has fair prospects of an early release, his great age and failing health being strong factors in his favor. He is eighty-four years old and wants to be with his children when the sands of his life run out.

A large number of both houses of the Legislature who visited the prison in January, 1889, were in favor of a bill making the punishment of lifetime convicts twenty-five years. This, with the commutation allowed for good behavior, would make the time actually served seventeen years and one month, long enough in every respect to stamp the worst of impulses from the human brain and tame the tiger that dwells in every man's heart. The bill passed the House but was killed in the Senate. It was a keen disappointment to many of the poor fellows, who would be glad to look forward to the day, no matter how distant, when they could be sure of leaving this place free men.

Besides those who are imprisoned for taking human life, there are over six hundred others serving sentences for lesser crimes. Among these latter may be found representatives of every nation, every trade and profession and every degree of depravity. They may be divided into three classes and a hundred grades. First, the professional criminal—men who know no mode of life beyond preying upon society, and who consider their business as legitimate as any other, and look upon a term in prison in the light of a business misfortune.

Next to these come the class termed "accidental criminals." They form by far the largest portion of the prison population of the nation, and fill the gap that lies between the professional crook and the pilfering tramp. As a rule they are not a dangerous or a vicious lot of men. Their crimes, with a few exceptions, such as manslaughter, rape and attempts to kill, being of a trifling nature, and in many cases utterly unworthy the punishment affixed. Still, though, heretofore they have been honest and industrious, and have fallen now for the first time, it must not be forgotten that the same men who are now classed as "habitual criminals," consequent upon their having served two or three terms in prison, were at one time "accidentals," and

many of them left the prison behind them as firmly determined to live an honest, upright life hereafter as many who are now serving their first term contemplate doing. Some of these—many, I hope—will succeed in the undertaking; and yet, to any one who gives the matter serious thought, or who is familiar with the histories of those who have been returned time and again, the task is one fraught with danger, full of obstacles and discouragements, and the man who finally overcomes all he has to contend with must of necessity be one of rare patience and force of character. That this is true who can doubt who has met a man upon whom the stigma of disgrace has fallen, about whose past the black shadow of a prison hangs? For with all that is said and written in regard to “giving a man a chance,” the hard fact is always apparent that, as a rule, the public won’t do it. The old adage is ever in their minds when they once learn a man has been in prison, “Once a thief, always a thief.” I could count fifty men who are at present confined in the prison for the second and third, even fourth and fifth times, whose lives exemplify this truth. Many of them, now callous and reckless of the world’s opinion, were not so a few years ago. They were then honest and industrious young fellows, a little wild, a little weak, no doubt, when temptation came, but who were firmly resolved that their first offense against the law should be their last, and in this determination formed courage to live the life of hardship that all prisoners must endure, and still held faith in that fallacy, “the world will give you a chance to redeem yourself.”

When two, three or four long years have come and gone, and they realize they are at last free to put into practice the good resolutions formed while in prison, they set about it with every hope of success. Perhaps work was readily secured, which happens sometimes, and for a season things went well with him. Bad habits forsaken, money saved and each week adding a little to the sum, and before many

months the prison life, with all its hardships, was well nigh forgotten, and the man was congratulating himself upon his success. Then suddenly a rumor—coming from no one knew where—began to circulate in regard to him. “He has been in prison,” one of his shopmates will say. So from mouth to mouth the word is carried. Then follow sneers, cold looks, insinuations, etc., and finally his employer asks him if the story is true. “Yes, sir; but—” “Never mind the rest; you will have to seek employment elsewhere,” is generally the employer’s answer. So the first rock in his pathway looms up. Still, the man is not disheartened altogether, though the leaven of bitterness and hatred against society, that every prisoner imbibes, begins to work, imperceptibly, perhaps, but none the less surely. He makes an effort to obtain other employment in the same town or city, and it may be he succeeds. Then he becomes aware of another rock—he is under police surveillance. A few days, sometimes a few weeks, and the same old story is repeated in his new place. The same sneers, the same cold looks, sly insinuations, and at last the discharge. The leaven is working harder now; but he still holds firm in the path of rectitude, and goes from the place to another city or town, where he again finds employment. Thinking, no doubt, as the days go by, that at last he has escaped from the stain of his past, and in this feeling of security lives on for a time. Then the old, old story is repeated, and once more he finds himself driven out upon the world. His heart is not quite so strong, nor his will to do right so firm as of yore, and the feeling that he is not getting a fair chance pervades him, and a feeling of combativeness arises. Prior to his imprisonment he drank some, or gambled a little perhaps, and as a usual thing dissipation in some form caused his fall; and recalling the pleasures of those other days now, he indulges to drown his trouble, and “just for once,” he will say to himself. And this is the beginning of the end—the end that is always recorded in the books

of some penitentiary. It does not happen all at once, of course, as he has not yet abandoned his intention to earn an honest living; but his courage is shaken, his hope less buoyant, and his efforts to obtain employment are less persistent, and while his savings last he consoles his conscience by making spasmodic efforts that result only in failure. And as it goes on, his money squandered, no friends, no work, then he commits some crime. Nothing serious or heavy, for he lacks the skill of the professional thief, and fails to perceive the policy of taking the least chances for the largest gain, and in stealing, as in all professions, lack of adroitness brings disaster, and he falls again. Henceforth his struggles for a better life are over, and he makes only one more of the countless wrecks that strew the shores of time.

The above is a fair history of many and many a man who is now rated as habitual criminals, and I have pictured it under the most favorable aspect, for it must be said that finding honest employment and retaining the same is by no means easy for an ex-convict, and when this fails him the struggle to do right is shorter, his return to jail or penitentiary speedier.

There is an impression prevalent among many people, even among those who give much study to the reformation of criminals, that an "habitual" criminal is necessarily a "professional." This is not so, for though a professional may be rightfully termed an "habitual," many of the habituals are in no sense "professionals." Take, for instance, the illustration I have given of men who, after a struggle, fall again. What do their crimes ever amount to? Comparatively, nothing. Their thoughts seldom turn to stealing until necessity drives them, and their only object is to get a few dollars "till I could strike a job," they will say. There are scores of convicts in the Northern Prison who have been convicted three and four times, or more, and not a half dozen among them can look back to the posses-

sion of a thousand dollars obtained by theft. As I have remarked before, it is this class of men who form the prison population mainly, and it is to be hoped that means will some day be found to help and encourage them, when, by a term in prison, they have atoned for their first crime.

CHAPTER X.

THERE are a goodly number of the human species termed "tramps," "bums," or "hobos," within the walls of the Northern Prison, and while they are the only class, perhaps, that there is no hope of reforming and therefore hardly worthy attention, I shall give a page or two pertaining to the illusions some people hold in regard to them.

In country towns they are considered authors of every crime, from robbing a hen-house to burglarizing a bank, and the word "tramp" in the bucolic mind is a synonym for all that is desperate, all that is wicked and all that is ingenious in crime. No greater fallacy prevails than the one that presumes these fellows capable of a great crime. It may be they are depraved enough, but the mere willingness on an individual's part to commit a crime is usually a long distance from its consummation. They are a worthless lot, as a general thing, ignorant, brutal and depraved, and any hope of reforming them is small.

A man with whom I conversed one day upon prisons and prisoners made the following remarks to me:

"Prisons! The best of them are no play-houses, but my experience has shown me that they would be less hard were it not for the tramps and plough-boys who come to them.

"These 'ducks,'" he went on, sarcastically, "have no heart for any dangerous violation of the prison discipline, such as escaping, but they are continually engaged in some senseless, petty, aggravating infraction of the rules, and the

officers, without considering that these fellows are all of the same kidney, get sore on all convicts and treat all as a body as bad as these 'bums' are treated."

My inquiries regarding the class of men who are punished most frequently have corroborated the above remarks made by the man I have quoted, and who, by the way, is possessed of keen powers of observation.

Another impression anent the "hobos" is that they have a code of signals by means of which they can communicate with each other at a distance. This is also a fallacy. There is no tie that binds them together as a body, no understanding existing between them as a class. There is a peculiar jargon spoken by them that belongs to them alone. It consists in sounding the letters a, y, on the end of each word, and is not by any means hard to understand.

There is very little friendship or regard existing among them, though two or three, attracted to each other by some trait, may walk through an entire State, and when they part heartily despise each other. The following dialogue between two of them will illustrate how sympathetically they view a companion's misfortune:

Two of them meet, say in Toledo: "Hello, Shorty!" "Hello, Maggots!" "Where ye bin?" "West, on de U. P." "See Pig Iron any place?" "Yaas, him an' Yorkey is sloughed in de Hoosier State." "De h—l dey is, wot fur?" "Sluggin' a bloke wid a couplin' pin." "Dey git much stuff?" "Naw; seven cases." "How long is dey in fur?" "Five stretch apiece." "Five stretch fur seven cases! De bloody chumps." And this is the only sympathy expressed for the lamented disaster to "Pig Iron" and "Yorkey."

Taken as a whole, they are a bad lot, but there are not many of them who could justly be called dangerous, and if, among my readers there be any who imagine that a bevy of tramps on the outskirts of town means burglary and arson, rapine and murder during the night, they can rest

assured no such deeds will come from Ishmael's favorite sons, the wandering "Hobo."

Before dismissing the subject of tramps and their doings I will relate an incident told me by a gentleman confined for a season in the northern retreat. This man is a typical bum, and is known from the rock-bound coast of Maine to the verdure-clad slopes of California as "Mulligan's Pug." Mulligan is by no means a bad-featured young man, and perhaps, trained in a different school from the one in which his boyhood was spent, he might have filled some post of usefulness in the world, though the wandering spirit was inborn in him, but, even so, he could have indulged it as a sailor, and I suggested as much to him one day.

"Nixey, boss. I made one vi'ge to Liverpool on a cow carrier from Quebec an' yer kin bet yer life I makes no more. De peck is starvation 'long side o' wot Murdock gives an' it was work, work, all de time," and a string of oaths emphasized his opinion of work of any kind, at any time or place.

But to the story Pug told me. His story, which I will try to give in his own æsthetic dialect:

"'Twas 'long in seventy-nine, me an' Squash Burke was a-movin' troo Ohio; de wedder was fine an' we was trampin' de country roads fur a change. One day we kim to Bucyrus, Ohio, an' hevin' a few bones got full as geese an' spent 'em. We waked up in de mornin' feelin' purty tuff; bin layin' in de rain wot commenced to fall arter we was dead drunk, an' Squash, he say to me, 'Pug, go an' beg a few dimes an' some chuck.' I sez, 'you come wid me,' an' we started. It was a bad mornin' and de people fired us out as fast as dey kim to de door. It wus gettin' elust on ter noon 'fore we found a Samaritan. She was a nice-lookin' ol' party, an' all 'lone in de house. We axed her fur a meal an' she sez, 'Come right along in, boys, an' I'll git yer somethin'.' We went in; nice little house, everything neat an' clean, an' wile de ol' lady was a-cookin' de chuck,

Squash he kep' a-makin' remarks like dis, 'Say, Pug, d'ye know dat ol' lady makes me think o' my ol' maw; de same kind face, de same blue eyes, de same white hair,' an' knowin' de ol' soul was a-watchin' him he pumped up a few tears.

"'Pore feller,' says she, 'don't feel bad; better times 'll come p'raps, an' yer kin go back to your poor mudder.' It most made me laff, cos ye see I knows Squash's mudder; she's an' old lush."

"Wen de meal was near ready, Squash, who likes eggs, saw dere was none a cookin', an' de old bum say to de woman, nice an' purty: 'I begs yer pardin, mum; but I don't see no eggs on de table.' She looks up at dis statue o' gall, an' I think got skeered a little, fer ye know Squash is de ugliest lookin' tramp in de States. 'I haven't an egg in de house,' she said at last. 'Too bad; I can't make a meal widout eggs,' sez Squash, and den he seemed to think a little an' sez: 'De rain has stopped, mum; so just give me some change an' de basket an' I'll run down to de store an' get some.' De old lady was par'lyzed, I reckon, for she never sed a word, but giv' de bum four bits an' a basket, an' off he went. I know'd he'd never come back no more, so I eat my chuck an' den moseyed off after Squash, an' found him in a boozin' ken drinkin' a geyser an' eatin' free lunch," and here Pug laughed as if it were a good joke to abuse the kindness of the old soul who had been good to them.

As a specimen of the cheek these loafers will display, the above anecdote is a fair sample, and it also displays the trait predominant in them, viz: if you treat them kindly they will think you a fool; treat them harshly, they will respect you. Such is my opinion from what I have seen of them in Michigan City.

Now, having disposed of the "lifers," the "accidentals" and the "hobos," I come to a class more interesting in every way, if more dangerous than the others—the professional crook. Within the grim walls of the Northern

Prison has been the abiding place of many of the most noted and dangerous men this country has produced, men whose names are known and exploits mentioned wherever criminal life is discussed. At present there are not over fifty or so of noted professionals there, though in past years there have been many.

Frank Rande was at one time an inmate, a man whose desperate deeds rendered him a terror to a portion of Illinois, and who was captured in St. Louis only after he had slain two of the policemen making the arrest. This crime was ignored, however, as the State of Illinois had a prior claim on the distinguished murderer. He was taken to Illinois, tried for murder and sentenced to Joliet for life. A doubt as to his sanity existing in the minds of the jury was the only thing that saved him from the gallows. He died in Joliet after a murderous assault upon one of the prison officers, after being himself badly hurt. Suicide was what was claimed as the direct cause of his death, but "hung by the keepers" is the verdict of those familiar with the desperado's disposition. While in Michigan City his violent temper was manifested many times, but no serious results followed.

Among others who have a national reputation as dangerous crooks may be mentioned Mart Davis, who was associated with Paddy Guerin, Billy Burke and the redoubtable "Mollie" Matches in the Galesburg bank robbery. Jimmy Carroll, it is said, tarried there for a short season some years ago. Harry Floyd, Mike Wall and Billy Fairburn also "done a bit" for the daring robbery of an Indianapolis bank in 1878. This was one of the heaviest robberies ever committed in the State. During business hours, when the clerks of the bank were busy attending to their duties, the gang of crooks entered and placed themselves in the most suitable positions for screening the "sneak," or performing pal, from observation. The latter, when he entered, carried in his hand an ordinary looking sample

case, and after a quick glance about the bank and getting signals from his confederates, placed his case on the floor near the teller's window, and reaching over grabbed packages of currency amounting to nearly \$25,000. The excitement and furore the crime created is still remembered by many of the citizens of the city. But there are very few, if any, who know that the man who actually stole the money was concealed for five days in the house of a policeman attached to the city force. That this is true I know, from information given me by a crook who was serving a short sentence during my sojourn in the Northern Prison, and among other things he told me of the robbery. I have no doubt he was closely associated with the thieves at the time it was committed. The oddest fact in connection with the matter is that the actual thief was never arrested for the affair, but the others, or a portion of them, Floyd *alias* Southgate, Fairburn and Wall, served their time for the crime.

Many others of equal note might be named, but they are gone, and their subsequent lives are no doubt written in the annals of crime.

In more recent years there have been but few, comparatively speaking, of such crooks in the Prison North. Bill Hoolihan and his partner, Gib Yost, were sent there in 1884 for a jewelry robbery of some magnitude. Hoolihan received a sentence of two years and Youst fourteen. The former served his time. Yost died in prison some two years ago. Thus ended the career of a great criminal.

"Red" Hyler, the "prince of hotel thieves," completed a five years term before I left, and he expressed his determination to lead an honest life in future. May he do so, for convict and criminal though he be, few men possess more manliness or a better heart than quiet "Red."

Among the most noted who still abide within the walls of the Prison North, is Harry Underwood, whose exploits as lieutenant to the daring road agent, Jane Bass, are well

known to the police east and west. A better natured, truer-hearted man with his friends can not be found ; with his enemies he is not quite so genial and generous, it is said.

Next to Underwood comes "Walk" Hammond, who for eighteen long months has fought a hard, grim fight with death, and kept him at bay by the sheer force of his iron will and courage. That his days are numbered, there can be no doubt, for consumption holds him in its relentless grip, and his life, and the death of poor Walk, when it comes, will point a moral to all young men inclined to go wrong, a lesson never to be forgotten. In the long months of my own incarceration, I was daily brought in contact with this man, whose life has held so much that is thrilling and romantic, desperate and deadly, too, perhaps, that I can hardly believe it, and I have often wondered if society, against which such men have declared war, does not often manufacture its own pariahs. Hammond's youth gave no indication of the spirit, that in later years, moved him to do deeds that placed him under the ban of society. In his boyhood, almost, he entered the army, and served faithfully through the war, and bore his full share of wounds and hardships. When peace came, he went back to his home, on a farm, a little wild and reckless, perhaps—for the years of camp and battle made many such—and went to work. For years after he was an engineer on the J. M. & I. R. R. His first appearance as a criminal was as a partner of the Reno boys, whose bold robberies startled the country at the time, and who were hunted down by that king of detectives, Allan Pinkerton. Just what Hammond's degree of guilt or innocence in the robberies perpetrated by the Reno gang was, I do not know. He was convicted and sent to the Southern Prison, and no doubt that ruined him for any future usefulness. Since then he has figured as one of the greatest criminals in the land. He has been a confederate of such men as Bill Boyd, Old Man Mills, Peter McCart-

ney, and other dangerous makers of spurious money, and yet his present conviction is for a crime of which I verily believe him innocent, and which pointedly illustrates the truth of the saying, "give a dog a bad name," etc. As I write, this man lies at the point of death. Only a short time can elapse ere he goes to the judgment of a higher court than those which have made his life a desert on earth. I can remember a thousand conversations I have had with him, remembering how patient under great trials and suffering he has been, how true and steadfast to his friends; thinking also of his iron will and hardy courage, his strong intellect and wide knowledge of men and the world—I ask myself if the law does not deal harshly many times with those who go astray. What do any of us know of the temptations that must beset such a man, and how can any of us gauge or understand the influences that drive him into the tribe of Ishmael? Is there, after all, a Fate that marks out the path each human soul must travel and out of which no human power or mortal will can turn him?

Following Underwood and Hammond, the names of Henry Tettman and Reddy Jackson, the Attica postoffice robbers, may be mentioned as among the clever professionals in the Prison North. Also Bob Henry and his partner Fox, both famous bunko men. The same may be said in regard to Charlie Ellison, Red Gordon and Tad Newman, and no doubt there are fifty others whose names I can not recall.

These men, as a rule, give but little trouble to the officers, though the greatest vigilance is always exercised in watching them. These are the men from whom the authorities expect attempts to escape, but the system of surveillance is such it is very seldom even an attempt is made, and rarely, indeed, is one successful. In fact there has been no escape for years that could be classed as such. There have been runaways, it is true, but only in the cases

where the fugitives were "trusties" and worked outside of the walls.

The most extensive break ever planned under Warden Murdock's administration was the one already referred to as led by John Kennedy. The plan was to capture the night guard in the cell house, and keys having been fitted and made that would open the door leading into the guard room, where the other guards were, capture all hands and let all who cared to go have their freedom. Kennedy performed his part, but there was lack of courage on the part of his confederates, and the guard was able to give an alarm and arouse the prison force ere he was captured by the desperate gang, and the break was quelled by the wounding of Kennedy.

The man who needed the most vigilant watching of any convict within the walls was Pete McCartney, the great counterfeiter, and though he was kept under close surveillance he came very near making his escape on two occasions. In the first years of Pete's incarceration there was a man who was allowed to keep a lot of rabbits and chickens in one corner of the yard. This man was old Pete's route home, and with the adroitness and cunning he possessed above all men, the old coney man succeeded in coming to an understanding with he of the rabbits, and it was to the effect that the latter was to tunnel from beneath his rabbit hutch under the prison wall, which he could very easily do, as he was not looked upon with suspicion by the officers, and his movements would always be screened from the sight of the wall guard, beneath whose very feet the work went on.

After a long interval of cunning labor the work was completed, and nothing prevented the exit of the two worthies; nothing, at least, but the failure of Pete to produce the sum of money which he had promised the rabbit man. "When we get out and away all right, you shall have it," said the wily Pete to his tool. But this was not

satisfactory to the gentleman, so he put Pete off for the time, promising to accompany him the next afternoon; then, wishing no doubt to test the utility of his labor, he made use of the tunnel and escaped alone, leaving Pete to curse and fume at the trick his tool had played him. Poor tool! He was but a dull instrument after all, as his recapture followed closely upon his escape, and his after life in the prison was not a bed of roses. But Pete, in no manner discouraged at the failure of the scheme that was foiled by his own distrust of his tool, or his own cupidity, set about the execution of another plan to escape.

The cell-house entrance at that time was through a single massive door, hard to break or batter, but simple enough to pick, or, still better, make a key to fit. At 9 o'clock, each night the guard (there was but one in each cell-house then) made his round of the ranges to see that all lights were extinguished and the convicts in bed. This and other details Pete, of course, was acquainted with. Having succeeded in making a key to fit the outer door of the cell-house, and in the meantime having sawed through the bars of his cell, he only waited a favorable night to make the attempt. He had also managed, in some way, to secure an impression of a tower key and had supplied himself with a key to open the same, and would surely have succeeded in escaping had it not been for an accident. The night he wished came at last, dark, windy and rainy, and when the guard ascended the ranges at the 9 o'clock bell Pete slipped from his cell to the entrance door, turned the bolt, and was within a yard of freedom when a gust of wind caught the half-opened door and closed it with a bang. That caused the guard to pause on his round and he saw Pete and commanded him to surrender, which he did, and was returned to his cell again.

It was on the following morning, while he was in the office to answer for his attempt to escape, that Warden Murdock took a fancy to see the inside of the truss which he

wore, and Mr. Murdock's curiosity or shrewdness was rewarded by finding a large amount of money snugly packed away in the old man's supporter. This was Pete's last attempt to escape, or at least the last of which the officers had knowledge, but it is doubtful if there passed a single day of his sentence in which he did not plan and scheme to get away.

Only a few months after his release from the Northern Prison he was arrested in New Orleans for passing counterfeit money, and is now in Columbus prison serving another long sentence, and where he will, no doubt, end his life; a life that has been remarkable for the immense sums of money he has had through the means of counterfeiting, and also for the many escapes he has made at various times, but he is getting old now and his days are about over.

Speaking of escapes recalls the daring effort made by Frank Whiting and John Havens, the two Indianapolis desperadoes, to avoid the penalty of their crimes. They made three attempts at divers times, the first two being foiled before anything like success was promised; the third and last was the boldest and nearest to success, and happened in this way:

Every morning a switch engine enters the yard to pull out freight cars, loaded or unloaded the day previous, by the various contractors. When the engine is ready to leave the yard, a signal is given and the big gate swings open. Directly over the gate stand two guards, heavily armed, and to pass them unhurt would be a miracle. There is, perhaps, one chance in a thousand, and this one chance Whiting and Havens took. Accordingly, one morning in September, 1887, they rushed from the shoe-shop in which they worked, brushing aside every one who attempted to stop them, and sprung upon the engine when it was within twenty yards of the open gate. With loud cries and threats they drove the engineer and firemen from the cab. Whiting

grasped lever and throttle, threw one ahead and pulled the other wide open, and—overdid it—the engine giving one great bound and stopping. By the time they had sprung upon the engine, old Charlie Young, a phlegmatic German, who guarded the wall, had taken aim at the two desperadoes and fired a load of buckshot; a moment later and the contents of the second barrel of his gun went crashing through the roof of the cab, and one bullet found lodgment in the breast of young Whiting, an inch above his heart, and he fell dead, still grasping throttle and lever. Havens sprang from the engine and started for the woods, but was speedily re-captured. He had sprained his ankle, and had also been grazed on the head by a bullet.

This ended an attempt that for desperate hardihood and reckless courage stands unsurpassed in the annals of prison escapes.

CHAPTER XI.

RECALLING many conversations I have had at various times with members of the fraternity—crooked fraternity, I mean—I will give a few anecdotes that have been told to me, because they are full of interest, and illustrate, to some extent, the ups and downs of a thief's life; also because they are happenings of which no one but the actors or their intimate friends have knowledge.

I will take, first, a story told me of "Blinkey" Morgan, the famous burglar, whose crimes and history occupied so much space in the public press a year or two ago. The man to whom I listened ranks high among the clever ones of his profession, and is well known to the police as a former "pal" of Morgan's. We were discussing the latter, one day, in the hospital, when my acquaintance made a remark relative to the ignorance of the police and public of the true relations that often exist among criminals and their

friends. It was relative to Nell Lowry, who remained faithful and true to the condemned man until his execution, and then secured his remains and had them decently buried. My informant is now a free man, as his sentence expired before I left, and Morgan is dead; therefore I see no indiscretion in making public one of the episodes in the life of the daring outlaw.

"What do the police or press, or, in fact, any one but the crooks themselves, know of how we live or where we spend our time when not in trouble?" remarked my acquaintance.

During this and other conversations, I learned many things new to me, at least, pertaining to the lives of our modern bandits. This is the account of one of "Blinky" Morgan's adventures, as given to me by my acquaintance:

"It was in the autumn of 188—," he commenced, "that Morgan, Jim Kennedy, Jeff Meggs, and a man known as 'Nailer' (who had another name that most of the 'coppers' would know, but as his disappearance from crooked circles has always been unaccounted for, I will not tell who he was) left Cleveland, where they were living at the time, to do a job of safe work in New York State, down in the Black river country. Meggs, Kennedy and Morgan had been friends for a long time, but 'Nailer' was a new comer, comparatively speaking, though known to be reliable and clever. His manners were surly and disagreeable. With Morgan, especially, he was slow to make up, and it was against the latter's expressed will that 'Nailer' joined the mob. They had done some three or four clever pieces of work prior to the one they left Cleveland to accomplish, and though no fault could be found with the 'Nailer's' qualities as a 'peter' man, he and Morgan failed to get on together, and the latter told Kennedy and Meggs that he would quit the mob rather than go away again with 'Nailer.' They persuaded him to make one more trip, however, and he finally consented.

“‘I do not like that duck; he and I are likely to have trouble,’ were Morgan’s words when he consented.

“And sure enough, the party had not gone a hundred miles on their mission before a wrangle occurred between them. It was smoothed over by their companions, but there was an ominous look in Morgan’s eyes and a cruel expression about his square jaws when he said :

“‘We are after money now; when the work is done I’ll settle this quarrel with you.’

“‘Whenever you’re ready,’ was ‘Nailer’s’ terse reply, and the matter dropped for the time being.

“In due time the party reached the place where they were to commit the robbery. Not a word had been passed between Morgan and ‘Nailer’ since their jangle, but all the minor details of the work in hand were arranged and carried out as if the two were on good terms. Each man had his part to perform and few words were necessary once the scene of action was reached. Morgan and ‘Nailer,’ being the mechanics of the mob, entered the building and began work on the safe, Meggs and Kennedy keeping a lookout on the street and alley respectively.

“The two men at the safe worked rapidly, but the terms on which they were prevented them from asking each other’s opinions. As it was a make of safe Morgan was not familiar with, he drilled his hole too deep; that is, he bored through the ‘dog,’ a small steel strip connecting the wheels of the combination. In consequence of his mistake it was necessary to drill another hole, and this gave ‘Nailer’ an opportunity to jeer at Morgan, who said nothing at the time, though it was probable that what happened later was hurried by his conduct. Another hole being drilled by ‘Nailer’ proved right, and the contents of the safe were soon in the possession of the mob.

“Their ‘get away,’ as it is termed, was toward the St. Lawrence river, twenty miles away. A team having been stolen by Meggs, the party of four entered the carriage,

and after driving about fifteen miles on their journey, left the carriage in a piece of woods and unharnessing the horses turned them loose. A walk of five miles would bring them to the river, where a boat was in waiting, having been stolen and placed there the day previous by Kennedy.

“Day was just breaking when the quartette reached a spot of open ground bordering the river. In the darkness and hurry of their ‘get away’ no attempt had been made to divide the ‘swag,’ which was still in Morgan’s possession, he having placed it in a bag on taking it from the safe. Usually a successful robbery, as this one had been, puts the gang in good humor, and I have known them to bear hardships and deprivations on a ‘get away’ with perfect good humor that ordinarily would not be attempted. It was not the case on this occasion, however, for Morgan, who was never much of a talker, was no doubt brooding over the feelings he harbored against ‘Nailer,’ and the latter, surly, taciturn and careless of any danger, made no effort to mollify Morgan. The two other men felt instinctively that trouble was brewing between their two companions, and knowing Morgan as they did, felt sure it would not be long ere his anger vented itself; hence, the tramp through the woods in the gray of the morning was made in silence. When they halted on the edge of the river and seated themselves for a lunch the sun was rising, and the faces of the men wore a haggard, weary look. On the face of Morgan a heavy scowl was visible, and his eyes glinted as he cast occasional glances at ‘Nailer.’ When the lunch had been eaten and a mouthful of liquor swallowed by each man, ‘Nailer’ spoke in a surly voice:

“‘I want my ‘bit’ out of that stuff, so put it about,’ and he gave Morgan a look of defiance.

“‘You’ll get your ‘bit’ when I get ready to give it to you,’ was Morgan’s reply.

“‘When will that be? If you take as much time to do

it as you did to open the 'peter,' I'll go broke before I get it,' and 'Nailer' smiled jeeringly.

"'I'll put a hole in you, if you are not a cur,' exclaimed Morgan, springing to his feet and pulling his gun.

"The 'Nailer' also rose, but made no attempt to draw a weapon. His grim face was set hard, as he gazed without quailing into the muzzle of Morgan's weapon.

"'As well now as any time, Morgan; I knew you and I would have it some day, and I mean to kill you. I know you are a killer and all that, but I've done a bit in that line myself; so put your back against that stump and I'll stay here, and when Jim drops his hand I'll show you that you can't fight even a little bit.'

"Without a word Morgan moved toward the stump, while Meggs and Kennedy each approached one of the would-be principals and tried to talk them out of having a shooting match. Kennedy stood by 'Nailer's' side trying to induce him to stop before it was too late, while Meggs started to walk with Morgan to the stump. The latter two had only gone a few yards, when the crash of a pistol rang out on the still air, and a bullet passed through the hat of Morgan. 'Nailer,' who was treacherous by nature, took advantage of his antagonist as he turned his back, fired the shot, thinking thus to rid himself of his foe. Morgan turned suddenly and gazed with scorn and contempt upon his would-be assassin, and raising his pistol suddenly, cut loose and struck 'Nailer' in the side, but the ball glanced off. Then both men blazed away for a minute, advancing as they did, and the fourth shot from Morgan, hardly five feet from his antagonist, went crashing through 'Nailer's' brain and he fell stone dead.

"'It had to come, he's got his bit,' Morgan said, as he gazed at the dead man.

"After a short consultation it was decided to bury the dead man where he had fallen, and the grave was dug with the 'jimmies' which the burglars carried. It was a lonely

spot, far from any habitation, and not likely to be discovered by any one; and thus ended the life of a criminal whose disappearance was a source of wonder to his acquaintances, for friends he had none, at least known to his confederates, though perhaps his earlier life had held many. After burying the corpse and removing as much as possible all traces of the work, the three entered the boat and made good their escape. Little was said regarding the tragedy by them, and a profound silence was kept for many months in regard to it.

"The whole story was told me by Jim Kennedy a short time before he was killed while committing a burglary in Michigan. Morgan had any number of shooting affrays, and the one with Johnny Welch in a Detroit hotel, the Mansion House, is well remembered by all the gang. Of his affair with 'Nailer' very few knew or even surmised, but it illustrates the desperate determination of the man, who, whether innocent or guilty, suffered death for the murder of Policeman Hulligan at Ravenna, Ohio.

"And now let me say a word in regard to the relations existing between Nell Lowry and Morgan. It is taken as a matter of course, by reporters and coppers, that any woman who remains faithful to a man known to be a crook must, if not his wife, be his mistress. While this is true, as a rule, the fidelity of Nell Lowry to Morgan was the outcome of perhaps the purest feeling that either life had ever held. I am in a position to know, and I tell you there was nothing evil in their friendship. Charley Lowry, the husband of Nell, was for years Morgan's most intimate and confidential friend and confederate, and if one fell (arrested) the other would move heaven and earth, take any risk, or give all he possessed to release him, and during the long time the two men were 'pals,' Morgan lived with Lowry. The friendship between his wife and partner was one fully understood by Lowry, and had there been anything wrong about it he was not the man to overlook it, and being every

bit as dangerous and guilty a man as Morgan, a tragedy would have taken place. When Morgan was arrested for Hulligan's murder, Lowry was in prison, and he wrote to his wife to do all in her power to save his friend, and it is well known that her efforts in this direction were gigantic. It seems a bit unjust that her motives were misconstrued by the daily press. I am not asserting she was an angel or Morgan a hero, but I claim that the friendship and fidelity of this woman to her husband's friend was not unworthy of a nobler woman."

CHAPTER XII.

MANY strange, unexpected and often embarrassing encounters take place in the prison. I recollect one in particular that attracted my attention for several reasons. It was between a man who had figured as an actor, an evangelist, a swindler in a petty way, and who made some pretensions to respectability, claiming he was the only son of an aristocratic Southern family, and had the history of many well-known families at his tongue's end. The other man was a notorious crook, who has been mentioned in connection with many heavy crimes. The two met in the hospital, both being sick. The alleged actor, on seeing the crook, ran forward with outstretched hands to greet him. The cool assurance of the crook has often recurred to me since.

"You have the advantage of me; I don't recall you," said the crook, looking squarely in the eyes of the actor.

"Don't know me? Don't you remember Stevens, one of your Novelty company?" exclaimed the actor, somewhat surprised at the words and tone of the crook.

"My Novelty company!" asked the crook with a perfect assumption of ignorance. "My friend, are you a bit cranky, or what do you take me for?" and he coolly

turned his back upon the perplexed actor, whose eyes followed him in doubt, and turning to me he asked who that person was.

"Don't you know him?" I asked, amused at the fellow's bewilderment.

"I thought I did, but you see he repudiates all knowledge of me; and yet I can swear that he is a person I once worked for. I was with him and his troupe for three months, and I knew him well, or rather knew the person I thought he was, and I do believe he is the one I once knew in spite of his denial."

"Perhaps he has good reasons for not recognizing you," I suggested.

"Ah, you're right! I remember now that the man I took him for, and who was proprietor of our show company, was discovered later on to be a noted burglar. Let me see, what was his name?"

Finally he spoke the name, and sure enough it was the very one the crook was now serving time under. I scented a story worth hearing, and tried several times to get the actor alone, but without success, however, for the crook, after repulsing the man as he did, seemed to consider the danger of the latter gossiping too much about him, and without admitting for a moment that he remembered the actor, or the matters he referred to, began a conversation by speaking of the many strange resemblances that one meets with. Such was his plausibility that I really believe, had it not been for the actor remembering his name, which he had heard by chance long after the troupe disbanded, and this name being the one now worn by the crook, he would have been convinced that he had been mistaken in the man.

The name and the circumstances it recalled were too much for even the crook's subtle tongue to talk away, and the actor, professing he had been in error, talked on other subjects with his new (?) acquaintance. The latter, who

was more reticent and taciturn than most crooks regarding his past days, seemed determined to give the actor no chance to reveal what he knew regarding him. Therefore, it was not until some days later that I heard the actor's account of the crook's profitable masquerade as proprietor of a theatrical troupe. When the crook had gone back to the shop and the actor still remained in the hospital, I asked him one day what he knew of "Cool Jim," the burglar, and he gave me the story, which I have no reason to doubt, for it is in perfect accord with the ingenuity and smoothness of the burglar in question. I omit names of towns, etc., as it can serve no purpose to give them.

"It was in August of '81," the actor commenced, "that I answered an advertisement for a man to play lovers' parts in a troupe preparing for a tour of the smaller towns throughout Pennsylvania, Ohio and Michigan. I was engaged at a fair salary, and on the 1st of September we left New York for our first stand. The troupe was composed of four ladies and five gentlemen, and in addition there was the advance agent, a young man who seemed well posted in the theatrical business. The proprietor was 'Cool Jim,' his name on the printing being James McGrudder. Our first performance went off well and to a crowded house, so we all felt satisfied with our engagement and disposed to like our manager, who was very attentive to our wants, always keeping us at the best hotels and furnishing sleeping-car accommodations when the ride warranted, which was not often. Aside from his liberality in this respect, he was always planning and contriving to make our trip a pleasure excursion, and two weeks had not passed before we looked upon him as a very angel of a manager. Miss Genevieve Storr, our leading lady, in particular, was very gracious to him, and he was inclined to regard her favorably, I soon perceived. Not that he made any important distinction between any of us, but we noticed that the best rooms in the hotels, the lower berths.

in the sleeping-cars, the daintiest fare at the table, some way always fell to her. None of us were disposed to be jealous, for she was a good, sweet tempered woman, and so our tour prospered for a while. But in Ohio we fell upon a streak of bad luck, and bad weather seemed to pursue us, while the receipts began to grow smaller and smaller in each successive place. This continued for some weeks and we were all surprised and pleased at the perfect equanimity and good nature our manager preserved. Each week, whether the attendance was poor or worse, we received our salaries in full. There was no curtailment of comfort or courtesies, and we were more than ever convinced that Mr. McGrudder was an angel or a millionaire. We often remarked among ourselves, that on a blustering, rainy night, when the people in front could be counted on one's fingers almost, and when under ordinary circumstances any other manager would curse and fume, our manager would smile cheerily and say, 'Never mind, better luck later.' This was his invariable reply when any of us condoled with him after the performance. Miss Storr, who seemed to grow more attached to him the longer she knew him, said to him one night, at our cozy little supper after the performance :

" 'Don't you think, Mr. McGrudder, that you find this a losing speculation, and had we not better disband and go home?'

" 'I know you mean well, my dear Miss Storr,' he replied, but Jim McGrudder never turns back, and until I have covered all the ground laid out for my company, I can not decide whether I'll quit loser or not,' and there was a pleasant smile on his face as he tossed off a glass of wine, saying, 'good luck.'

" We wondered at his pluck, and all of us determined to help him, as far as lay in our power, to make a success of the trip.

" We had been accustomed to getting the papers from

each town where we had played, and one of the party remarked, one day, that the towns in which we had showed were singularly unfortunate in being visited by burglars on the nights we had been there. Our advance agent happened to be in the party when the remark was made, and laughingly said, 'that it was a retribution on the towns for failing to patronize our unequalled performance.' I noticed an amused glance in McGrudder's eyes at the time, but paid no particular attention to it. Later on, when the weather was bad, and the sojourn of our troupe was generally followed by a burglary in the town, we began to comment on it among ourselves, in a jesting manner, and the ladies would playfully accuse us of being the desperadoes. McGrudder did not escape these merry accusations, and he always replied with some witty remark. Our engagements were promptly filled in every town, and when the last performance had been given, and we assembled around the table to take our last dinner with Mr. McGrudder, there was not a soul in the company but regretted the coming separation; Miss Storr more than the rest, I feel sure. Before we separated each member received a handsome present, that of Miss Storr's consisting of a handsome pair of diamond ear-drops, which, by the way, she wore the last night I saw her in the Madison Square Company.

"It was a good many months later that actors about the Morton House were commenting on an article in a daily newspaper relative to the cunning means used by 'Cool Jim' to mask his depredations. Detectives had gradually put the consecutive robberies together, made sundry investigations, and finally discovered that 'Cool Jim' and his 'pal,' who acted as advance agent, while attending to his legitimate business, did not fail to look after the other branch. Their plan was simple and yet ingenious. The advance agent would pick out a safe to be robbed, and learn all particulars as to how much money might be stolen, and on the night of the robbery he would run back to meet the

troupe. After the performance, he and McGrudder would steal from the hotel, commit the robbery, and the agent depart with the 'swag,' and McGrudder would steal back to his bed; the only chance of trouble being the danger of having been seen leaving or returning to the hotel. This he managed to avoid, and for three months he carried on a raid that was successful, under cover of his position as theatrical manager. No wonder he was satisfied to play to small houses if the weather was favorable for his work, and it usually was. But whatever his crimes, none of those he employed had reason to complain of his honesty or courtesy; and I am sorry to think he would not recognize me; but he has reasons, perhaps." Thus the actor concluded his story.

"The funniest adventure I ever had, and the most rapid," said a clever hotel thief to me, in reply to a query, "was back in '79 or '80. I had followed a certain famous actress from New York to St. Joe, trying to nail her diamonds; but it was no go, which I found out when after weeks of waiting and watching in hotels, on sleeping-cars and about the theaters. I was nailed by one of Billy Pinkerton's men and fired off the train when I thought I had 'em. I was 'dead sore' to get a 'tumble' after spending so much time and money, and going out of St. Joe the next night, I was ripe for most anything that would net me some 'coin.' I got a berth on a sleeper and looked the passengers over for a 'mark.' I soon found one in a big, loud-mouthed cattle man, who was drinking freely and exhibiting his money to all comers. About 12 or 1 o'clock that night I caught the conductor asleep, and in a few moments I had the cattle man's 'coin,' and then left the train at the next stop, got a freight train 'get away' to Blankville and landed there with just ten hundred and twenty dollars, and I felt pretty easy. I dropped into a faro bank and in a few hours I had 'dropped' nine hundred of my boodle, and as I had been drinking some I got 'sore' and quit, intending to go out

and take a walk and then try my luck again. I strolled into Murphy's place to get a drink and ran into a crowd of fellows there all talking fight. Now, I think, I can scrap a bit myself, and when a spindle-shanked, lantern-jawed consumptive among the crowd declared he could lick any man in the house for a hundred, I thought I saw a chance to get back some of my money I had 'blown in' against the 'bank.' So I pulled out every cent I had; put my watch and pin with it, and said I would fight him for two hundred and fifty against the lump. I was a stranger in the place and so no one gave me a tip, and besides, I was too drunk to notice how quickly my money was covered or the smiles they gave to one another. We wasted no time on preliminaries, but descended to the cellar. A ring was made, a referee appointed, seconds volunteered, and in ten minutes from the time I put my money down I was lying cold as a wedge in one corner of the ring, and only came to my senses when my second jabbed a pen-knife under my finger nail. If I was a hot member before, I was sizzling when I found out that the man I thought I could lick was the winner of a prize-fight fought only a few days prior to my fool break. Well, I got a drink and sat down outside the door to consider matters. I had lost a thousand and all my collateral, and had the tar slugged out of me, all inside of five or six hours. Now, I was dead broke and a stranger in the town, and had made no arrangement to do any 'work' at my hotel, but get money I must, and that right off. It had been years since I had done any 'house work,' and I did not like to do it now, but 'needs must, when the devil drives,' so I determined to give the town a shaking up.

"I was so poor that if the stores had been open I could not have furnished the price of a case-knife (the only tool I needed) so I went back into the saloon and stole the knife from the lunch counter. This done, I set out and walked into the residence portion of the town and began operations. It was about 1 o'clock when I came out of

the first house I entered, and counting over the proceeds of the burglary, I found I had realized twenty-seven dollars, a gold watch, and a snide pair of diamond ear-drops. The next house netted me four dollars and a silver watch, which I didn't carry away. The third house gave me forty dollars and a gold watch, and as the night was about gone I concluded to tackle just one more resident and quit. I came across a house that looked as if it might hold a person who had wealth, and when I had tried in vain to get in, for I had the idea it would pay me, I looked around for some way to reach the second story, and finally found a ladder in the stable. This I brought out and placed against what I thought was a bed-room window, and after working on it a few minutes, threw the catch off and raised it to get at the slat blinds inside, and when they were open I pushed them away from me to take a look inside. Just as I did so, something struck me and down I went, heels over head into the yard, and I lay there for a minute or two trying to figure out what in h—l had happened. I was soon startled by hearing a couple of people laughing heartily above at the window I had opened, and jumped to my feet. As I did so the laughter ceased and a man's voice hailed me.

“‘Are you hurt much?’ he asked.

“‘No,’ I replied.

“‘All right, then; take my advice and go home. You ought to thank your good luck that you haven't got a pound or two of lead in your body.’

“‘Much obliged to you,’ I said, ‘but before I go wont you tell me what struck me?’ and at this question he and his companion, it was his wife, burst out laughing again.

“‘That is a fair question,’ he finally said. ‘I lammed you with a bolster. Good night.’ And he closed the window and I started for down town. I went to the hotel where I had a room, slept until nine, got breakfast and then took the train for Chicago, thinking all the way

of what a good-natured duck that fellow was, for he might just as easily have shot me as do what he did, and if he had been anything but a dead game, cool-headed fellow he would have done so, no doubt.

CHAPTER XIII.

I ASKED a man, who enjoys quite a reputation as a "gopher-man," one day, "Is it true that a first-class burglar can open any safe made?"

"Give him time enough and let him make all the noise he wants, and he can," was the reply. "But," he continued, "as we never get time, and four or five shocks of dynamite usually make a disturbance, there are very few men who attempt to open a burglar-proof safe in one night. What I mean by a burglar-proof is the kind used by banks and first-class houses. There are plenty of safes sold as fire and burglar-proof that may be the former but not the latter. A burglar-proof has outside and inside doors, and within these a chest that is built into the safe in such a manner that it can not be opened only by a car load of dynamite. The work 'peter' men do is seldom done on anything but a fire-proof, the doors of which can be drilled in forty minutes, the dog broken, and the stuff is yours. Once in awhile it happens that a mob will run across an old-fashioned piece of work, made before the present process of hardening steel was used, and then, of course, they can do it. Any door you can drill you can open, but if you can't put a hole in it to hold your explosive you're done. In this old work there is often a chest, too, but where they are beat it is when the door is sagged and there is a crack between the door and the jamb. Then a pump is used, and after you once get her loaded of course you can open her. The size and appearance of a safe is no guide to one not versed in the make-up of them. A jeweler may

have one as high as his ceiling, and to look at it you would perhaps say that there was work that would defy any burglar, and I presume many a jeweler has gone home to his bed consoled by the thought that the stack of iron which held his merchandise was impregnable, only to find when he opened his store in the morning that a thief had come in the night and his jewels were gone to return no more forever. Such, I fancy, is the experience of many. And just to show you how deceptive appearances are, and that a beautiful landscape painted on two or three tons of iron is no protection, I will tell you a funny thing that happened to a party I knew. He was living in a certain town and being away from home a good deal it often happened that his bills ran up to two or three hundred dollars during his absence. His wife entertained to some extent and his credit was good, therefore he was a bit troubled when one bill amounted to nearly three hundred dollars and must be paid. We had only 'run in' with nine hundred apiece, and to pay one account of nearly three hundred, and as much more for some others, would leave him short. But the bills must be paid. He must, for his family's sake, stand well in the community where he passed as a traveling man for a wholesale liquor-house. After considering how best to manage, he struck a brilliant idea. It was this:

"The merchant to whom he had to pay the largest bill had a little, insignificant-looking safe, not more than three feet high, all scarred and scratched, and judging from the looks of it, it held nothing but books. Jack, that was my friend's name, made up his mind to delay the payment of the bill until after banking hours.

"He will be sure to put my 'dust' in that old 'peter,'" Jack said to me, "and to-night we will go down and get it. See?"

"I saw, and laughed at his novel way of settling. About 4 o'clock we strolled down town and settled a few of the smaller accounts, and then sauntered into the merchant's

store. He was glad to see Jack, made up the account, and Jack handed him three one-hundred-dollar notes, and I looked around to see what he did with them. To my surprise he went to the old 'fire-box,' as Jack called it, and pulled out a drawer full of 'coin,' and counted out the change due my friend. When we got out in the street we both smiled.

" 'It's like finding a thousand, Dan,' said Jack.

" 'There's all of that, and more,' said I. We had paid more attention to the amount of money the man had in the safe than to the safe itself, and a pretty mistake it was.

" About 11 o'clock that night we made an entrance and put the 'machine' on the door of the safe and gave a few turns of the drill, and crack!—it broke.

" 'That's funny,' remarked my friend, as he fitted another drill in the 'machine' and began again! Crack! Another drill broken. We began to feel as if we had bitten off a little more than we could chew. We tried another drill. Away it went. One more, and the same result. Then you should have heard him swear.

" 'It is a steel peter!' he burst out; and so it was.

" The poor, rusty-looking old box was as burglar-proof, so far as we were concerned, as is the Treasury in Washington. When my friend had eased himself a bit, and the air grew less hazy and sulphurous, we sat down to consider what to do. We had not come prepared for any serious work, and had no explosives, no sledge; in fact, no tools but the 'machine,' a jimmy, a screw and tap, and a punch or two.

" 'I can't afford to lose that 'dust,' ' Jack said, at last.

" So we went to a blacksmith shop and got a couple of sledges, returned and knocked off the combination knob, and tried to drive the spindle through. It was no go, though we made more noise than a dozen men riveting boilers. It was a good night, however—raining hard and blowing a gale—so we disturbed no one.

“At last I suggested that we get a team and haul the old box out in the country, plant it, and when the fuss was over, take some dynamite and smash it. This seemed Jack’s only chance to get his ‘coin’ back, so we started out again to steal a horse and wagon; and it is a funny thing to tell, but true, that with all the racket we had made in the store, on the main street, no one was aroused; but we got the worst kind of a tumble just as we were hitching up a man’s horse. He yelled murder, police and everything else, and aroused the town to hunt the horse-thieves. So Jack and I stole back to his house. He was the wildest, sorest thief in the world, and as for me, I could hardly keep from laughing at the way he swore about losing the three hundred.

“‘It’s a robbery, nothing else,’ was a remark he made a dozen times, and it was a month before he got over talking about it.

“I knew of a mob from Philadelphia actually stealing a big burglar-proof safe that could not be opened in the office, and loading it on a wagon, drove twenty miles in the country and dropped it off a bluff into a ravine forty feet deep, and before they got it open they had to explode twenty-eight shocks of dynamite on it, and wrecked it completely; so completely that they could not make any use of the door as an ‘instructor.’ One of them took a piece broken off near the dial and tried for a long time to make a drill that would bore it, but never succeeded.

“I have a notion that Billy Porter can come as near to opening any safe as any man in the world, but the fact still remains that we never hear of work being done in the large banks now-a-days, and a man that could open any safe would soon be rich.”

This is the verdict of a man who should know of what he speaks, and who explodes the idea that there are no burglar-proof safes.

CHAPTER XIV.

A PROPOS of a conversation in regard to omens, "hoodoos," "jonahs," etc., I put the question to one of them, "Are thieves superstitious?"

"No more so, as a class, than other people," he answered. "Some strange things happen us occasionally that seem unnatural and weird, and the actions of two cats—a black and a white one—has given me a certain belief in them as hoodoos. I will tell it to you.

"I was out with a mob doing a piece of work one night, and things were going on nicely, as we thought. We had the 'peter' opened and were opening the little iron box inside, when three or four pistol shots rang out and several men swarmed into the room. It was no time for holding a consultation, so we blazed away at random and finally reached the street, three of us together, our outside man having shot himself away and taken his own route home. After gaining the street we started on a dead run, and the crowd soon dropped away from our heels, and by the time we had got a mile or so from town things were still, and we were making plans to get away, for we knew daylight would bring a hundred people to scour the country for us. We had heard a groan or two from the crowd when the shooting was quickest in the store, and did not know whether any were killed or not; but in any case the matter was a serious one to be arrested for, and we must get out of reach by daylight. We dared not touch a railroad train, for of course the shooting affray and burglary were being wired in every direction before this, and it was a bit of puzzle we were in. As we swung along discussing the matter, one of the party happened to turn around and saw two cats, a black one and a white one, right at our heels.

“‘Look there!’ he exclaimed. ‘Some one’s got croaked back there.’

“We all turned, none of us, I am sure, not free from a certain thrill of apprehension, as we noticed our attendants. We pretended to make light of it, however; but somehow every man of the three stopped at the same moment to pick up a rock to throw at the hoodoos. The volley of stones caused them to scamper and we moved on again, changing our route and making for the river that ran past the town where we had been disturbed, having decided to find a boat and take to the water, and by stout pulling with the current, cover thirty or forty miles by daylight; and with this decision we struck across a field, and stopping on a fence for a moment, what did we see but the two cats, side by side, right at our heels again. Nothing was said now, but another volley of stones sent them flying again and we hurried on; but if we thought our friends had left us, we were mistaken. Five minutes later we heard a mew, and there they were cantering along at our heels as usual. The man who had first noticed them could stand it no longer, and said so.

“‘Let’s catch them and beat their brains out,’ and with this amiable intention he tried to coax them to him; but they refused to be coaxed, even when he held out a tempting piece of chicken that composed part of our lunch.

“We had no time to waste, so firing more stones at the beasts, we started again and saw no more of them until we had reached the river and entered the boat—and there they were! The man who seemed most worried about the cats was in the stern to steer; the other man and myself were to pull, and everything being ready we pushed off. Just then, like two streaks of black and white, the cats sprang from the shore to the boat, and one landed in our steersman’s lap and the other at his feet. With a curse he grabbed them, and rising in his seat, threw first one and then the other as hard as he could against a tree stand-

ing on the river bank. Without a word we took our places again and pulled down stream, and not one of us free from a feeling of awe and dread at the strange persistency with which the two animals had followed us.

"We got away safely; but the man whom the cats seemed to frighten the most, was killed in less than a month after at Shelbyville, Ohio. And there is the story. Whether there is anything in omens or not, I don't pretend to say; but there are not many of the gang who like to meet a black cat or a cross-eyed man on their way to do a job. A hump-backed citizen is a mascot if they can take 'hump trick,' viz: touch his hump.

"Ed. Rice is probably as shrewd and keen a man as there is among the crooks. He has enjoyed wonderful luck, and time and time again has he been arrested for heavy crimes. When his friends had sung his requiem, he has managed to wiggle through the meshes of the law and come up smiling. His faith was in a caul, born upon his little girl, and Ed. has worn it for years through all the varying chances of his uncertain career, and his belief in the power of this charm to keep him safe from 'doing time,' was sublime. His faith must be shaken somewhat now, I fear, for my last account of him was to the effect that he had been handed a long sentence by a Canadian judge for an express robbery in Ontario.

"Of old Rufe Miner, the greatest among the smart bank workers, it is said he would never go into a job until he had consulted a certain seeress and fortune-teller in New York. Certain it is he has been unusually fortunate in escaping punishment for his crimes. And thus I might go on and name a hundred crooks, each one of whom has his pet superstition, but, even so, they are not different from the respectable portion of humanity in this respect."

"Do professionals ever reform?" was another query propounded to one of them; one who it may be said, is dyed in the wool.

"Plenty of them," he answered promptly.

"Then why is it the prison reforms set your fraternity aside as useless to labor with?"

"That is a question I can not answer," he replied. "It may be for the reason that when a crook means to 'square it' he does not profess to have religion or to have been washed in the blood of the Lamb, but just quietly steps away where no one who knew him as a crook is likely to locate him and changes his name by taking his own, as it is generally the case that an *alias* has shielded him down his crooked career. If his own name has become known, he takes another, and as a crook generally reforms or 'squares it' from motives of policy, he goes about it deliberately, and using every precaution to conceal his past. It so happens when this is done his reform is seldom known, and if it comes to the knowledge of the detectives who have known him as a crook, and finding out that he is 'squaring it,' and they believe he is really 'on the level,' I want to say right here that they very seldom throw a stone in his way or say anything to make people suspect him. It is true, that if they know of his locating in a certain town, they may keep him in mind for a time until they are sure that he is not making some plan of robbery under his reformation garb. Once they are sure he is trying to do right, it is very seldom they annoy him; and all this blather about detectives driving a man back to a crooked life comes, usually, from a lot of 'Jim Crow' thieves, who, when they thought they were crooks of the first water, came near starving at it. No, sir; I want to say that a man who has been a smart thief will find no enemies among the 'coppers' if he wishes to brace up and live straight.

"In proof of this, I might mention a number of cases. That of 'Snatchem,' for instance, in Philadelphia. He had been one of the 'swell' mob, and was sent to Joliet for heavy jewelry robbery in the Palmer House, Chicago. When his time was up he determined to quit the crook,

and went to Philadelphia and obtained a situation. It did happen in this instance that he had personal enemies among the detectives of that city. But this is seldom the case. They took steps to drive him away from the city, as he was doing well at the time and engaged to be married, when his enemy or enemies exposed him to the girl as a reformed thief and ex-convict. At this stage of the affair the Pinkerton agency stepped in and took Snatchem's side, and placed all the power of their influence to work. The result was the detectives who had tried to down him were dismissed, and Snatchem married the girl, and is an honest, prosperous man to-day. Though his case is only half an argument in support of my assertions that detectives are seldom the cause of a man taking up a crook's life again, as it was detectives who tried to force him back, and detectives who fought his battle. His was an exceptional case, for as a usual thing there is no hard feeling between detectives and crooks. Of course, in the way of business the detectives will put a man away for a few years, or the crooks will take a shot at a copper, but there is no malice on either side, and when they meet, and one does not want the other, they are the jolliest friends imaginable.

"Speaking of reformed rascals reminds me of a very romantic reformation brought about in a romantic way. It is an old, old story now, but one pretty well known in a general way among a few men in New York.

"Back in '73 or '74 were the halcyon days of 'gunology' (crooked life). A crook is called a 'gun,' from the old English argot word 'gknoff.' In those days such men as 'Red' Leary, Bob Scott, Dunlap, Billy Flynn, Little Dan Cummings, Little Horace Hovan, Tom McCormick, Tom Draper, Porter, John Irving and fifty others, whose aim was to steal millions, flourished, and they did in a few cases at least, notably the Lord bond robbery (a sneak), the Ocean bank, the Concord bank and a score of lesser ven-

tures. Among the above-named men, and one of the smartest, gamest and handsomest, was a young fellow of twenty-eight, whom I will call Cyrus Pearsall. He had been a real estate dealer in some Western city, but had gone wrong and drifted to New York and fell in with a mob composed of four or five of the most successful criminals the world has ever known. His first crooked transaction with the professionals occurred some months after he had formed their acquaintance. Prior to their proposition to take part in a robbery he had supposed them sportsmen about town, and was a good deal staggered when they coolly suggested that he join them. They were good judges of human nature, and had gauged his morality closely enough to feel sure that even if he declined their proposal he would be silent regarding it, and they knew his funds were low also, and therefore they counted somewhat on that. Taking an inexperienced man into a partnership is not often done, but it happened just at this time the mob needed a man to rent rooms adjacent to the bank which they proposed to rob by tunnelling through the roof of the vault, and as the person who engaged the rooms would be fully described after the robbery, none of the gang cared to do this part of it, hence the proposal to Pearsall. Another thing in his favor, as they considered it, was his familiarity with the real estate and insurance business.

“His first experience was a success financially, and from that time on he was one of the gang, and his shrewdness and judgment soon made good his lack of experience. This, too, came before a year had elapsed, and he gradually assumed a sort of leadership among his confederates. He was temperate in his habits and rarely appeared at the resort frequented by the mob, and by using many precautions that suggested themselves to him, he escaped the observation of the detectives for a long time. But, eventually, they connected him with his ‘pals’ and though he

was never convicted of any of the crimes in which he had taken a part, it was owing more to the 'pull' that the gang had in New York than to the ignorance of the detectives as to his doings.

"But to come to the story of his reformation. I will pass over the four years of his life as a 'gun.' I don't know whether he was tired of the life, or whether its romance had faded, or whether he was losing his nerve; probably a little of each; when he formed the acquaintance of a good, pure woman and realized how wide was the gulf between her purity and his own vileness. He must have had some queer thoughts of how far out on the sea of scoundrelism he had drifted.

"He was in Ottawa, Canada, when he met the girl I refer to. His was a pleasure jaunt, but he kept his eyes about him too, no doubt, for we get accustomed to doing this. As he was walking near the Parliament building one day he saw one of the fairest women he had ever met. What attraction she possessed for him I can not pretend to say, as he knew scores of lovely women, of a certain class, and even among the higher and more respectable set he had a few acquaintances who were ignorant of his mode of life, but never before had he been so impressed by a face, and he sauntered along behind her, curious, no doubt, to know where she resided. At last he saw her enter the door of a stately house and with a sigh and half-muttered curse he turned back to his hotel, still thinking of the woman he had met. He was aroused from his thoughts in a few moments by a hearty voice inviting him to the bar, and looking up he recognized an acquaintance he had made in Kingston, a captain of a regiment stationed there. When they had gossiped on different topics for awhile, the captain asked him if he cared for moonlight excursions. 'There is one planned for to-night and I can promise you a good time,' he went on, for he imagined Pearsall was what he represented himself to be, an insurance man from New

York on a vacation, as the latter's appearance and manner were those of a refined, cultured man of the world, and it was not strange that the captain was deceived. Pearsall's first thoughts were of his fair friend, and more in hope of seeing her aboard the steamer than for any other reason, he accepted the invitation.

"It was a beautiful night, and the boat was comfortably filled with the wealth and aristocracy of Ottawa, and among the beauties assembled on the deck he was delighted to perceive the object of his thoughts, surrounded by a bevy of women equally as fair. 'There is a countrywoman of yours, Pearsall,' Hale said, as he noticed the direction of his companion's glances. 'Who is she? What State is she from?' Pearsall inquired, with an eagerness that surprised his friend somewhat. 'Rhode Island; Providence is her home, I believe.' 'Can you introduce me, Hale?' 'Certainly.' A few moments later the robber and burglar was bowing with the grace of an honest man in the presence of the beautiful woman, whose eyes met his so frankly and with such a gracious look that he winced, remembering how different his reception would be did she suspect what he really was. Dancing was in order during the evening, and in the intervals between, Pearsall found himself talking with his inamorata. Few men could converse more pleasantly, or with more tact, than this rascal, and judging by the attention with which the young lady listened to him, he interested her. In the exchange of words, he learned she was the daughter of a retired banker, and was visiting with an aunt in Ottawa.

"The boat steamed on, out of the Ottawa into the St. Lawrence, and as the moon gleamed bright on the water, it gave a peculiar charm to the scenery on either shore, sending long reflections of the mighty trees far out into river. Pearsall, and the girl who was charming him more and more every moment, were strolling up and down the deck, having tired of dancing, when lights were seen

gleaming directly ahead and the steamer's course shifted a little. There was a rush to the side of the boat to look at an immense raft of timber floating sluggishly along with the current. Following the crowd, Pearsall and the young lady reached the taffrail just as the steamer lurched, and a cry of horror went up from every throat as Pearsall's companion lost her balance and plunged with a scream into the eddying waters below. Without a second's hesitation Pearsall went over the side, and in an instant his head appeared close to the form of the woman for whom he had made the gallant leap. A few strokes, and he was beside her, and holding her lightly, he struck out for the raft, which he soon reached. A mighty cheer went up from the steamer's deck as the strong arms of the lumbermen pulled the nearly-exhausted couple out of the water. The steamer had stopped as soon as possible after the accident, and the two were soon on board again receiving the congratulations of their friends. Pearsall treated the adventure lightly, for his life of late years had been replete with far more dangerous adventures than this; and it was not of his own courage he was thinking, so much as of the chance this accident gave him to form a friendship with this girl who had fascinated him. In the two weeks that followed, he certainly made great progress in the young lady's regard, and when he left Ottawa for New York, it was understood between them that they should meet at Newport, where she was to spend the balance of the season.

“On reaching New York Pearsall settled up his affairs, as he owned some property and held bonds that made him quite a wealthy man; wealthy enough to make him a good match, financially, for any woman. But he was too wise a man not to understand that money would play a small part in the mind of the girl he loved, when her love was given, and he also realized that to win her something more would be required than the mere statement of his bank account.

“His determination to quit the life he had led for four years was fixed. Perhaps he qualified it contingent on his success or failure in gaining the girl for his wife. Be that as it may, his first step was to provide a legitimate past for himself, and to this end he returned to his home, to the home of his father that he had left so long ago. His family was a good one and highly respected in the community in which they lived, and though they had blamed him sorely for his long silence, they were glad of his return. Through his father he formed connections with prominent business men in different parts of the West, and finally entered into partnership with a highly respected banker in a small town. His father’s name, his own wealth and familiarity with the details of banking business screened him from any inquiries as to how he had lived since leaving home years ago. The trouble that had sent him to New York was an affair easily forgotten by the people who had heard of it, as it was only a shooting scrape, so he leaped at a bound into prominence as a respectable member of society. Fortunately, none of his companions in New York knew his right name, and when months rolled by and he did not appear he was soon forgotten.

When he was firmly established in his new business (and he had accomplished it in a month from the day he had left Ottawa) he hastened to Newport and received a welcome that encouraged him greatly. But why dwell upon his courtship? When the season was over, the woman he loved was his promised wife. Of course there were inquiries as to his family, his business, his prospects, etc., all of which he answered satisfactorily, and one fair day in October he was married. And now, I presume, you think he was a greater rascal in deceiving a woman who loved and trusted him implicitly than when he was a thief pure and simple.

“But, no; when they were first engaged he told her enough of his past to prove he was no saint, and it was

with more fear and trembling than the wildest act in his life had caused him that he awaited the answer which she was to give him on the day following the disclosure. It meant so much to him, the verdict she was to voice, for he had not spared himself, and what he had revealed of his past was ample grounds for recalling the promise she had made him. How she thought or how she argued, perhaps, no one but herself could tell, but her answer was enough for Pearsall, and in the years that have passed since that time nothing has caused her to repent her choice. 'Not a wise one,' I hear you say, but she was young and she loved him, and if, in all the time since she avowed it she has been happy, who shall question her wisdom?

"In a certain town by a certain broad river, they live to-day happy and content, loving each other as truly and tenderly as in days of yore; and when reformation is discussed among a certain set of 'pariahs' in New York, Pearsall's name is recalled, for it chanced that one of his former 'pals,' on a scout for a bank to rob, dropped into Pearsall's office one day some years after the latter had given up his criminal life. There was a mutual recognition, a long talk and the 'pal' journeyed back East, and to a few chosen friends told the story of Cy Pearsall's luck, but his present name and abode were loyally guarded; perhaps a promise to aid him when trouble came influenced the crook to keep the secret. Be that as it may, Pearsall was never annoyed or troubled by any of his former associates, and so, peace be unto him."

And the convict narrator of all I have written, prepared to leave for his cell, and as I watched him disappear, I could not help thinking of how many good, useful, manly and even brilliant traits of humanity are mingled with the bad and reckless nature of many like him, who lack the moral courage to utilize their abilities in an honest calling.

This has recalled another conversation which I noted down at the time, with a man whose peculiarities have

gained him the *sobriquet* of "cold steel," and which he termed "an essay on gunology."

"On the broad, dangerous ocean of scoundrelism, Sim, my friend," this accomplished rascal began, "many rocks and shoals have risen of late to wreck and destroy the venturesome mariner who, upon beginning his voyage, must cut loose from courses sailed over in safety by 'guns' fifteen or twenty years ago. A map and chart of that date will not warn him of the mighty reef that guards the Empire City, or tell him where to steer so as to avoid the shoals that, though hidden, perhaps, are none the less surely in his path.

"To speak plainly, I mean that in the palmy days of yore, when the 'mobs' were shocking the sensitive nerves of society by taking such tricks as old Lord's bonds, the Ocean, Northampton and Kensington bank treasures, there was no Inspector Byrnes at the head of the secret service ship owned by New York city. In those days, also, the Pinkerton agency was not called upon as often as would have been wise; and so it was not such a hard matter for men to steal fortunes at a crack as it has grown to be since Byrnes guards New York, and Bob and Billy Pinkerton have a drag net stretched from Maine to Montana.

"I have heard people say that the class of great criminals is disappearing. This is not true. It is not for lack of men to commit them that heavy robberies are not frequent, but because there are not the chances there once were. To those versed in the knowledge of crime and criminals, and who are capable of comparing the men of the past with those of to-day, it is apparent at once that the present generation take far greater chances and exercise as much ingenuity for money and obtain less of it, than did the heroes of the palmy days. Another thing not to be overlooked is the fact that protection from the various detectives in each city is not to be had now-a-days, as it was twenty years ago.

“Inspector Byrnes’s system is such that a strange crook is not in New York twenty-four hours before some ‘stool pigeon,’ whom the stranger may think is all right, is leading him around for the Inspector’s staff to look at. He is not cognizant of this, to be sure, but if he gets a notion that New York is a soft place to ‘graft’ in, he will not be long in reaching Mulberry street; and if any enterprising ‘gun’ thinks he will get rich in New York, there are many ways of reaching the village. The best route is *via* San Francisco, New Zealand and Australia and then—stop.

“Of the Pinkertons no one can say much from absolute knowledge, but I have remarked that when they want a man they usually locate him in a surprisingly short time, and as a general thing, when their hands close on him they are not opened until some judge says five or twenty years, as the case may warrant. And for these reasons I say that the voyager on rascality’s sea must determine to steer a wise course and not be guided by the charts and maps of twenty years ago.

“‘What has become of the old timers?’ the Lord, only, knows. Some are dead, some in prison, many in Europe, and many more have joined what Bob Pinkerton calls ‘the order of lost nerves.’ There are a few who have kept pace with the years, and go right along knocking the lining out of ‘peters,’ sneaking banks, etc., the same as of old, but they don’t ‘touch’ for big money as they once did. And no wonder, for the banking people, the jewelry people, the merchants, the express companies, and in fact every class of people who handle money in large sums, have been warned and warned until they know nearly as well how to do a bit of crooked work as do the crooks themselves, and with this knowledge they also learn how to protect themselves. Of course there are certain kinds of stealing that will flourish forever, since ‘there is a sucker born every minute of the day,’ these are pocket picking, house burglary, highway robbery, and chance work that will drop

to men sometimes. As to bank robbery, it is about over with.

“When the war ended, many a clever fellow, whose experience as a soldier had spoiled him for any useful, every-day occupation, found it necessary to live, and by his wits only. To accomplish this many ingenious schemes were concocted for despoiling the unwary. Among this class of men the art of robbing banking and business offices on the ‘sneak,’ as it is termed, originated. The process is so familiar to every person to-day that a description of the *modus operandi* is hardly necessary. The original method has never changed much, though many improvements on the old way have been adopted, made necessary in fact as business people became educated to the performance. There are a score of ways of robbing an office in broad daylight, and perhaps the simplest plan is one first put into operation in Chicago about 1873. It was the result of an accidental circumstance which a certain thief happened to notice.

“The ticket agent in the Sherman House was seen to leave his office and stand talking to a man in a buggy in front of the hotel. This suggested to the crook a means of getting the agent away from his cash drawer and safe long enough to enable a ‘sneak’ to get in his work. And it was done a day or two later, and this robbery was followed by a score or more of similar ones right in Chicago, and a thousand places have been robbed the country over by this method. In a small town, where the banker or cashier is usually alone for a while at noon, a man drives up to the bank door in a buggy; he is well muffled up usually, and a pair of crutches are placed conspicuously by his side. If the man inside the bank can be seen from the buggy he is waved out with a crutch, or, if he is out of sight, a pal or perhaps some child passing along, enters the bank and tells the person in charge that there is a gentleman at the door in a carriage who wishes to see him. The banker looks

out and perceives a cripple, as he supposes, and hurries to wait on him. A conversation relative to the investment of some funds, or some other business, is carried on by the cripple, and the banker's attention is held until the former sees his pal, the 'sneak,' issue from the bank; then making a promise to call again, the invalid drives away, picks up his pal and off they go, leaving the banker half crazed and so bewildered at his loss that usually half an hour or more is spent in bewailing it before he recovers his wits enough to give an alarm. It is useless as a usual thing to pursue the thieves, for their 'get away' has been carefully planned, and with every chance for and against them weighed they will almost invariably escape immediate capture. Later on, if the Pinkerton's are employed, they will run over the sneak mobs known to be operating, and from the description given of the man in the buggy (the 'stall,' as he is termed), they can generally tell what particular mob did the job.

"A good 'sneak' mob must be composed of the very shrewdest and boldest men in the profession. All the qualities that good 'night workers' possess they too must have, such as nerve and coolness. In addition they must be of good appearance and capable of sustaining a business conversation with their victim, while he is being despoiled by the 'sneak.' The least nervousness or blunder that might arouse suspicion in the victim's mind must not occur, and it is harder to get a good bank sneak than to get any other class of crook.

"Among the famous or infamous 'sneak' mobs that have stolen money and securities enough to enrich them over and over again, are such men as Ed. Rice, "Rup" Miner, Johnny Price, John Jordan, Georgie Carson, who was the sneak in the famous Scranton Bank robbery; "Little" Horace Hovan, Wallie Sheridan, Joe Howard, Joe McCloskey, Chauncey Johnson, Jim Burns, Joe Butts, Billy Burke, Billy Flynn, Philly Pearson, Charley King, Jimmy Carroll, Oley O'Brien, and many others who might be named.

"The above formed a class distinct in their business from the equally dangerous 'night-workers,' such as Bob Scott and Jim Dunlap, who were the only ones convicted for the famous Northampton Bank robbery, "Red" Leary, Billy Connors and the others escaping on technicalities, and Edson by turning State's evidence. These men were a few of the bank-wreckers whose crimes startled the business men of the country into a realization of the insecurity of their safes and vaults, and caused prodigious improvements to be made by safe-manufacturers, and the efforts in this direction resulted in the new method of protecting safes and vault doors. Herring & Co. were the first to appear with a patent rubber flange on their safe doors, and this was followed later by the time-lock. The former rendered the burglar's most terrible tool, the air-pump, useless, and the second innovation effectually stopped the 'dirty-faced work,' as kidnapping the cashier of a bank and forcing him to open, was called. This was resorted to in the robbery of the Northampton Bank, and in many other cases, notably in Wilmington, Delaware, where Jimmy Hope, Jim Brady, Joe Howard, Tom McCormick and Frank McCoy were captured and sentenced to ten years in prison and to one hundred lashes in public. The whipping was duly administered to all, but the other part of the sentence was evaded by the escape of the gang shortly after their imprisonment.

"Their escape was one of the romantic episodes in the lives of the crooks, and was greatly aided by a pretty little school-ma'am, who fell in love with McCoy. Through her correspondence was carried on with outside parties, and one night a tug steamed down from Philadelphia, and the five men were borne away. McCoy and Brady were recaptured and returned, but again escaped, and as there was no employment for the convicts in Delaware Prison at that time, no attempt was made to bring them back. Inspector

Byrnes took a notion, not long ago, that Frank was not doing his duty as a good citizen and taxpayer of New York, and had him relegated to the classic walls of Delaware Prison to serve out the old, old sentence.

"It would make an interesting book, could one write it—all the ups and downs in the lives of the men who figured in the gigantic crimes of a decade or two ago. They are scattered and broken now—only a few left who follow the dangerous life.

"Old Jimmy Hope, probably the greatest safe-burglar that ever lived, is doing three years at Auburn (runaway time), he having escaped in 1874. He was, no doubt, the principal actor in all the troupe that first and last entered for the Manhattan Bank stakes. Probably as many as twenty different men were into this great robbery at different times, but one thing or another would go wrong, and they would drop out and another man enlisted. Hope was the main reliance of Grady, who furnished the funds as they were needed to carry on the scheme, and it was Hope's ability to open a safe that alone made the job possible. For with all the planning and scheming indulged in during the years that the plan was being perfected, all that was gained of protection, etc., would have been of no avail without the wonderful mechanical skill of the old man.

"Bank robbers, both of daylight and darkness, have more to contend with now-a-days than in the time of which I have spoken. Such precautions are taken by business men in the way of watchmen, at night, electricity attached in a dozen ingenious ways to their offices, and, above all, the class of work turned out by the safe-makers, that a heavy bank robbery is a rare occurrence, and the clever American crooks of all kinds have crossed the water.

"Among the noted ones who have stolen immense sums of money over there, and who are free and no doubt enjoying it, are Old Adam Worth, who has lived in London, and is considered the counselor and friend of all who

seek their fortunes in the old country. Next comes Max Shinburn, who stole a million in America and finally went back to his home in Germany and purchased the title of baron in one of the principalities.

“Charley King, an English thief who was imported by the original planners of the Ocean bank robbery to sneak the place, lives in England and Paris, where he went when the plan to rob the Ocean by sneaking was given up and tunnelling and burglary were resorted to, and a million dollars carried off by the thieves.

“Jim Burns, who escaped from Raymond street jail, Brooklyn, is also one of the shining lights of the fraternity now in exile; also Billy Flynn, Dan Cummings, Johnny Meaney, and many others who were well-known figures in criminal circles here.

“Billy Porter, who ranks with old man Hope as a burglar, is still in New York; but has been to Europe several times within the past few years, and each time he returned it was merely to squander the fortunes he had collected abroad. His last arrest in this country was made by Bob Pinkerton, who found him a guest at a fashionable hotel in New York shortly after a trip home from France. Bob was acting for the jewelers' association and arrested Porter for complicity in the robbery of Marks's jewelry store at Troy, New York, from whence over \$40,000 worth of diamonds and jewelry was taken. ‘Sheeney’ Mike Kurtz was also arrested for the crime, as was Joe Dubuque, another distinguished member of the fraternity; but all three eventually escaped punishment by a compromise of some sort.

“Jim Brady, another of Hope's pals, was recently liberated from Sing Sing, where he had served a seventeen-year sentence.

“And so we might go on with the list, but enough has been told to show why gigantic robberies are no longer an

every-day occurrence, and until some enterprising burglar can find means to open the bank safes of to-day, none are likely to occur.

“The big robberies of late years have all been accompanied by force or threats of violence; notably the robbery of Express-messenger Frotheringham by Wittrock, the murder and robbery of Messenger Nicholls, on the Rock Island railroad, by Newton Watts; the murder and robbery of Paymaster McClure near Wilkesbarre, Pennsylvania, for which the Italian, ‘Red Nose Mike,’ was lately executed. All these crimes were committed, not by professionals, but by novices, and the criminals in every case were brought to justice by the Pinkerton agency.

“A new mode of robbery has come into vogue of late, and is called ‘bunko,’ though in what manner it differs from highway robbery is not quite clear. A man calls upon a farmer supposed to have money, and negotiates for the purchase of a farm; or upon some other pretext induces the farmer to draw a large sum from the bank. This done, the victim is led out into the still, quiet country, and his money is taken from him, usually by force, and it is called ‘bunko.’ But ‘bunko’ means a swindle, if it means anything, and ’tis no wonder ‘Hungry Joe,’ the king of ‘bunko’ men, broke into prison when he learned how low his noble branch of scoundrelism had fallen.

“This latest kind of ‘bunko’ reminds one of the story of a fellow who, in a crowd of gamblers, claimed to be one himself.

“‘How do you gamble; what with?’ he was asked.

“‘A billiard ball and a stocking,’ was the reply, and only one old ‘spider’ in the crowd interpreted his meaning correctly:

“‘Oh, I see!’ the old fellow exclaimed—‘a rough gambler.

“As the billiard ball in the stocking was used for the purpose of knocking people on the head to facilitate rob-

bing them, it *was* rough gambling, but as near the smooth, peaceful work of the genuine sport as the present fashion of skinning a farmer is to the real bunko silkiness.

"I will tell you one more anecdote and then quit," said my entertaining acquaintance. "It is familiar to many detectives, perhaps, but the laymen may not have heard it, and as it gives a rather pointed example to the shrewdness of your modern Ishmaelites, here goes :

"It was fifteen or twenty years ago, when the excitement attending the diamond discoveries in South Africa was agitating many people. Old Adam Worth was an exile, living in London at that time, and he took a notion to go to the Cape and see if there was any business to be done in his line. He returned in due time and found a couple of trusty men. These secured and taken into his confidence, a safe of the very finest kind was purchased and put aboard of Adam's yacht, and sail was made for a return to the Cape. During the voyage out the three worthies mastered the intricate workings of the lock, and when they dropped anchor on the diamond coast they felt sure that the safe could not be locked against their manipulations; time and again they experimented and felt at rest on that point. At Cape Town one of Worth's pals opened an office of some kind, and the safe was the most conspicuous part of the furniture. No move was made for some time; not until the pal had gained the confidence of his business acquaintances, and had grown especially friendly with an extensive diamond-buyer, who occupied an office not far away. When this was accomplished the pal began to complain of the climate, and one day expressed a determination to go back to England.

"‘I don't want to take that safe back with me,’ he said to the diamond-merchant, ‘and it is the best one in this place. I'll sell it to you cheap if you want it.’

"‘If you really mean it, I will take it off your hands,’ was the reply, and in a day or two the sale was made.

"The pal, who, since landing was never seen in communication with Worth and the other man, sailed for England on the regular steamer, and the diamond-dealer was the last one to bid him good-bye as the ship sailed away.

"Now came Worth's part. When he learned that the merchant's valuable stock had been transferred to the newly purchased safe, he prepared his yacht for the homeward voyage, and on Saturday night he and his remaining pal entered the diamond-dealer's office, opened the safe and secured diamonds to the value of \$150,000."

CHAPTER XV.

IT was also my good fortune to meet an old-time counterfeiter, of more than thirty years' experience, whom I consider one of the best posted men in the country on the subject of counterfeiting. I am not at liberty to publish all I was told by him, for the reason that many of the persons named are still living, some of whom are highly connected, and a number of them have held public offices in various parts of the State where they reside, and are extensive stock-dealers. These men, in times gone by, have handled large sums of counterfeit money, their opportunities for "shoving the queer" having been favorable because of their large purchases of horses and cattle, and in this way large amounts of the "stuff" were placed in circulation by being sandwiched with good money. The person who gave me this information was a "go-between" the party who delivered the goods from the maker to the "shover." He is familiar with almost every city, village and hamlet in the country, but more especially in Indiana, where he is well acquainted with farmers throughout the State. He knows every cross-road, and has personal

knowledge of every hiding-place and rendezvous of counterfeiters and criminals who have infested Indiana for many years past. During many days and nights has this man related to me his experience, and the information thus obtained would fill a large volume. In the course of our conversations he gave me the inside history of one of the greatest murder trials in the criminal record of the State. The crime has always been a mystery to the people of Marion county, as also the causes that led to it, and the business in which the people connected with it were engaged. My informant having been on familiar terms with all the parties connected with the trial, his story was of startling interest.

Having been a "go-between" in the counterfeiting business, he was in a position to tell me of the notorious Johnson family, probably the most expert counterfeiters that ever had a residence in Indiana. The family consisted of eight persons. The father and three sons were engravers and printers, and lived for many years in the vicinity of Rising Sun, Indiana. In the year 1859 the father was indicted and sent to the penitentiary. The family then moved to Marion county, and settled not far from Indianapolis, and it was in an old log cabin in the northeast part of Marion county where Jerry Johnson, the oldest of the boys, engraved the first plate for greenback notes ever counterfeited, which were twenty-dollar bills of 1862. They also, in the same house, printed the notes. At this time old Pete McCartney was with them and was the banker, furnishing the money to carry on the business. As soon as the bills were printed the Johnsons moved to Indianapolis, where the "green stuff" was sold to parties in all parts of the United States.

As might be supposed, the Johnson family was becoming financially prosperous, and at this juncture tried to "shake" McCartney, but old Pete got onto their scheme and secretly got a lead impression of the Johnson plates and then suc-

ceeded in procuring a division of the counterfeit money on hand. This done, he left the Johnsons and went into business for himself. Having had his two plates electrotyped, old Pete immediately set to work and printed \$100,000 of the "queer," and had that amount on hand when Major Woods, a secret service officer, landed in Indianapolis to investigate the counterfeiting business which was found to be extensive and a new thing for the officers to contend with. McCartney was finally shadowed to the postoffice building where he was arrested, but being unable to locate Pete's den gave it up. In the meantime, however, the two Johnson boys, who had sold counterfeit money to Government detectives, were arrested, and, with McCartney, were locked up in the Marion county jail. In about a week the three men, under an escort of eight United States soldiers, started for Washinton City, to be confined in the Old Capitol prison that did service during the war. On their way to Washington City, and while going over the mountains in Pennsylvania, McCartney made his escape. He was handcuffed and shackled, notwithstanding which, he leaped from the train when it was moving at the rate of thirty-five miles an hour, and, though severely bruised, he managed to elude pursuit, and in about two weeks was again in Indianapolis. Few men would have taken such risks, but McCartney was a desperate fellow and a stranger to fear. His counterfeit money was securely hidden in Indianapolis, together with his plates, and having about all the counterfeit money in the country in his possession, and the demand for it being active, North and South, East and West, McCartney was anxious to have it distributed before the secret service officers discovered his plant. The Johnson boys, after a brief incarceration, made a compromise with Major Woods, and by surrendering their plates, secured their liberty. The Government was anxious to secure the Johnson plates, not knowing at the time that McCartney had duplicates of them.

When the Johnson boys returned to Indianapolis, they were financially embarrassed, and looked to McCartney for assistance; but the old man declined, giving the boys the cold shoulder, and they were forever afterwards bitter enemies. After this, the Johnson family scattered, and at various periods have served in the penitentiaries of the country.

Another man, whom I met in prison, was John Wagoner, a man with whom I had been personally acquainted for twenty years, and a better-hearted man never lived. He was always willing to divide his last dollar with a friend, but "wine and women" finally brought about his downfall. John became infatuated with a woman, and when in a fit of jealousy, and crazed by whisky and opium, made an attempt upon her life and seriously wounded her. For this offense Wagoner was arrested and indicted, but was admitted to bail, and for two years had the sympathy of all who knew him; in fact the circumstances surrounding the case had been almost forgotten. At the request of his attorney, Wagoner was tried, and to the surprise of every one the verdict of guilty was rendered, and he was sentenced to five years' imprisonment. When he left Indianapolis for Michigan City he was broken down in health and spirits. He is now employed in the tailor-shop of the prison, and though somewhat improved in health, his golden locks are as white as snow, showing that his mental suffering must have been severe. Wagoner is a favorite with the officers and inmates of the institution. He does his work cheerfully, and has a pleasant word for all who come in contact with him, and his case is surely worthy of executive clemency.

CHAPTER XVI.

DURING my confinement in the Marion county jail after my sentence, A. M. Alexander, better known to the people of Indianapolis as "Doc" Alexander, was placed there on the charge of forgery, brought by the Marion county grand jury. I had known Alexander for a number of years, and had always found him to be a gentleman. He was a man who had made many friends in his various business connections, and since my return from Michigan City I have met many of them from different parts of Indiana who invariably inquired after "Doc." The circumstances surrounding his case were peculiar. The gentleman who was instrumental in procuring the indictment was Jesse Johnson, a man I had known for many years, and one whom I had always held in high esteem, and no one felt more keenly the peculiar position the gentlemen had so unfortunately placed themselves in, knowing as I did that they had at one time been very intimate friends. After my departure for Michigan City, Alexander's trial took place. Through the press and other channels public opinion had been thoroughly aroused against Alexander, and his conviction, guilty or innocent, was a foregone conclusion. Alexander was tried and found guilty, and sentenced to two years in the Northern Prison. After he had been committed I met him almost every day, and on one occasion, while sitting in the hospital office, he told me of his first meeting with Mrs. Johnson, and their trip to Mexico and return. I will give it to my reader as he told it to me:

He said that in 1887 he was in partnership with A. Abromet, in the real estate business. "In the month of June of that year," said Alexander, "Mrs. Johnson came to the office to buy a house. That was the first time I ever saw

her to know her. I sold them a house belonging to M. H. Spades. After signing the contract, Johnson refused to comply with it. Spades sued him to enforce the contract. I was the only witness, and at their earnest solicitation I went to their house to board, Mrs. Johnson taking myself and baggage to the house in their buggy. I had not been there many days until I learned that the kindness and consideration with which I was treated were caused by Johnson's desire to induce me to swear to a falsehood in order to beat Spades in the lawsuit. At Johnson's solicitation I went with him to see his lawyer, to learn from him what was necessary for me to swear to, in order to win the suit. Johnson offered me three hundred dollars if I would swear that the contract with Spades was conditional. I refused. He then offered to deed to my daughter a piece of property that afterwards sold for \$450. I still refused; but I told him that I would go to Mr. Spades' attorney and endeavor to compromise the suit. This accounts for my presence in the Johnson house.

"Myself and wife had been divorced, and I felt very badly about it on account of my daughter. I told Mrs. Johnson of my troubles, and she in return related her own miserable life, and we sympathized with each other. She told me that she had made up her mind long before she ever saw me, to leave Johnson, but was prevented from doing so by her sister. She told me that she had \$3,000, which was mine if I would go with her, and we would start life anew. She said Johnson was worth about \$40,000, and she would write and tell him that it was all his own if he would only release her, which she did after we went away. In April, 1888, we were in Monterey, Mexico, and for the first time I saw a clipping from the Cincinnati *Enquirer*, sent to me by a friend in Cincinnati. The article was headed, 'Johnson's Revenge,' and stated that there were several indictments returned against me through the efforts of Johnson. Knowing that I had never violated the

statutes and that Johnson had trumped up the charges and procured the indictments solely for revenge, I wrote immediately to Judge L. J. Hackney, Shelbyville, Indiana, and to other friends, that I had determined to return to Indianapolis at once and prove my innocence, which I would not have ventured to have done had I known then, as I know now, the truth of the statement made by that great and wise statesman, the Hon. James G. Blaine, that 'a man could not get justice in Indiana.' I returned voluntarily to Indianapolis, although meeting accidentally with one of Johnson's detectives after having been three days on the road towards Indianapolis.

"On my arrival I learned that Johnson had sworn that he would spend thousands of dollars in order to send me to prison. He also threatened to kill me or any man who befriended me. He tried to execute his threat towards me at the trial in the criminal court room, and the judge had him removed and disarmed.

"I left Indianapolis on the 11th of January and returned on the 4th of May, 1888, and was brought to trial on an indictment for forgery on the 13th day of June, on which day, for the first time, I saw a note and letter by which I was informed the indictment had been procured. The prosecution showed that the note which had been drawn up in my favor, against Jesse Johnson for \$275, and enclosed in a letter dated Chicago, January 26, 1888, and addressed to A. Abromet, Indianapolis, Indiana. On the 26th day of January, I was at Aransas Pass, Texas, on the Gulf of Mexico. The letter and note were written on Indianapolis blanks, and ten good and competent witnesses, who had been familiar for years with my hand-writing, swore that neither the letter nor the note was in my hand-writing. Some of the jury have since admitted that I was neither proven guilty or convicted of forgery. In January, 1888, Johnson tried to hire John W. Kern, then reporter of the supreme court, to set up a job of forgery on me. Mr.

Kern positively refused. It was shown at the trial that the prosecution had this note on the 2d of February, 1888. Since the trial it has been stated and verified by affidavits, that in the month of March, 1888—a month later—Johnson made a contract with a St. Louis detective, agreeing to pay him \$2,000 if he would cause me to be convicted of passing counterfeit money. Thereupon the detective went to Indianapolis and procured counterfeit money from Mr. Bruce, member of the police force, and from Mr. Milt. Pouder, the well-known butcher. The detective gave these bills to Jesse Johnson, who swore that I had passed them on him, and tried to obtain an indictment against me for counterfeiting, but Johnson, learning that a friend of mine had procured evidence of his perjury, caused the case to be dismissed in the United States court. The counterfeit bills were identified by Bruce and Pouder by the private marks they had placed on them. I suppose that the note and letter have been destroyed as they can not be found, Johnson and his friends fearing that it might be shown that he had set up the forgery case the same as he did the counterfeit case. Johnson, publicly, on the streets of Indianapolis, tried to shoot Mr. Littler, who had procured the evidence against him. On the 30th day of June, Johnson shot two persons besides himself on the Governor's Circle, Indianapolis. The foregoing are the facts in the case," said Alexander, "and such is the character of the man who has solely, through private motives for revenge, caused me to be deprived of my liberty since the 4th of May, 1888. To say that I have repented of the extremely foolish act of going away with Johnson's wife would be putting it very mildly, considering that my present great misfortune is to be attributed to that one false step."

This was poor "Doc's" sad story as he told it to me in his prison garb. I could not help pitying him, and there are many people who, when they read his story, will be amazed that such things can be done in this free country.

But I beg to inform the dear reader that this is not the first case that has come under my notice, and as I have before remarked—money will accomplish almost anything. When I left the prison “Doc” was employed in the tailoring department, but I have since learned that he has been installed as prison librarian, a position that he is fully qualified to fill, on account of his knowledge of books and literature.

CHAPTER XVII.

I NEED not say that such subjects are anything but agreeable to me, but they touch society at many points, which must be my excuse for dwelling upon them. They are daily thrust upon my attention, and I have written of them that the outside world may know something of life within prison walls

I had many opportunities, during my leisure hours, to be in the office where letters to prisoners are opened by Thomas Corbatt, a man who has grown gray in the service of the State, and who, for twenty-six years, has been connected with the Prison North, a greater part of the time employed as keeper of the gate in the main entrance, and in opening all letters directed to prisoners before they are delivered. Some of these letters are exceedingly nonsensical; but there are letters from broken-hearted parents, and others from suffering wives and friendless children, many of which are well calculated to arouse the tenderest emotions. Old man Corbatt has locked up in his memory the secrets of many a family who have now or in the past have had dear relatives or friends in the Northern Prison. I have often seen a dollar or a quarter, and sometimes a dime, taken from a letter to be placed to the credit of a convict in order to furnish some little luxury he might want, and unknown to prison fare. Accompanying these small remit-

tances were often the sad words, "This is all the money we can spare; I have worked hard this week to get enough to live on, and out of my scanty earnings I have sent you this, all I can spare." While reading such pathetic words I knew that the man in prison had been getting better food and more of it than his poor family, for he is certain of three meals a day and a place to lay his head, while his family suffered for want of the commonest necessities, at the same time living in dread of a heartless landlord, and the sufferings incident to eviction.

Leaving such topics for the reflections of my readers, I will invite their attention to a brief account of the Northern Prison. The construction of the prison began about the year 1860. At that time the site of the prison must have been a dreary place, surrounded, as it was, by hills of sand, with few inhabitants.

A few convicts were transferred from Jeffersonville, Indiana, to assist in the construction of the prison. One of them, old Bob Robinson, is still there, and he is the same "Bob" I have already referred to in this book. Very little was done towards beautifying the grounds or improving the buildings until James Murdock was appointed warden some ten years ago, since when he has enlarged the buildings and made many valuable improvements, and the change that has resulted is so great that a person who had been familiar with the appearance of the place years ago, would now be surprised at the change. The yards are all neatly sodded and flower beds are seen in all directions. The gloomy walls of the cell-houses every few months receive a coat of whitewash, which makes them look neat and cheerful, and the floors are scrubbed every day. There are water-works which supply an abundance of water all through the building. A large bath and wash house has been constructed, with fifty metallic tubs for bathing purposes, all supplied with hot and cold water, and the prisoners are required to bathe each week and change their shirts

and underclothes, for many of whom the regulation is a new departure in habits of cleanliness.

There is a large artesian well on the grounds, and bath tubs have been set apart for those whom the physician prescribes artesian water bathing for their infirmities. And here I will mention the fact that fully one half of the men sent to the Northern Prison are broken down in health and are suffering from divers diseases caused by dissipation and recklessness. As a result, a great many of them, when they arrive, are at once placed under the physician's charge, and if their term is a short one they go forth from the prison greatly improved physically. While in the prison they are subjected to stringent rules, such, for instance, as regular hours for meals, for retiring and rising, dissipation being out of the question.

Dr. Calvert, the prison physician, is fully qualified for the responsible position, and is possessed of more patience than usually falls to the lot of men of his profession. A convict, if he desires to see the physician, is permitted to take his place in the sick line each morning, and is examined; and if not fit for work he is laid off until he is able to resume his labors. The doctor spends most of his time in the prison, or within easy call, to attend to any inmate who may be injured or become sick. During the time I was in the institution the hospital did not average over ten patients a day, while the death rate was but eleven a year, and for the current year (1889) it will not exceed seven. This speaks well for the sanitary condition of the prison, as also for the skill of the physician, since the average number of convicts is about 750.

Strict rules are necessary in the management of a prison, and those disposed to comply with the rules will have no trouble in getting along. Punishment in the Northern Prison is light compared with similar institutions elsewhere.

Deputy Warden Thomas E. Donnelly is the officer who has entire charge of the institution, and all complaints

inside the prison walls are referred to him. The convict appears before Deputy Donnelly and gives his statement of the case. If it is a case for which he deserves punishment, he will receive it according to the character of the offense. Some times it is the dungeon, or his good time is lost, or he may receive a reprimand and be sent back to his work. Mr. Donnelly is a man of few words, and they are to the point. The position he holds is one of great responsibility; necessarily he has to be careful not to show favoritism. There are always some men ready to take advantage of any privilege that may be extended to them by the officers in charge. This leads to jealous feelings, which can not be allowed in a prison. Mr. Donnelly always has a kind word and good advice for each prisoner when he bids them good-bye at the gate.

Robert Sutton is the steward of the prison, and for many years, in various capacities, has been connected with the institution. The position he now occupies brings him into contact with the prisoners more than any other official connected with the prison. Hardly a day passes that Mr. Sutton is not in the hospital speaking kind words to the unfortunates, and giving them good advice.

Mr. Charles Murdock is the prison clerk, and has held the position for several years. He is courteous and obliging to all who have business with him, and in fact, for the past year or two, has done most of the buying for the institution, and has shown himself to be a young man of superior business qualifications.

Luke Fleming has charge of the south cell-house, and John Casey of the north cell-house in the day-time, and Capt. Richard Wolf has charge of the prison at night. These officials are all gentlemanly, and are courteous towards all with whom they have business.

As to the forty men who are employed to guard the prisoners, it is sufficient to say that, as a rule, they are reliable and efficient men.

The Rev. J. J. Faude is the chaplain of the prison, and services are held every Sunday morning in the chapel. There is also a night school connected with the prison, with an average attendance of forty. A great many convicts by this means have learned to read and write. The school system is a new feature of the prison management, and has proved a great success, and it is to be regretted that the arrangements are not such that each prisoner could devote several hours each evening to this kind of training, for I believe it is the right plan to get their minds directed toward reformation.

There is a splendid library connected with the prison, containing about three thousand volumes, and it is well patronized by the prisoners. Besides, a great many newspapers are taken by the convicts. Prisoners are allowed to have any kind of reading-matter, except that which is obscene and calculated to corrupt their morals. Candles are furnished all the convicts to read by, but there is now being constructed an electric light plant in the prison, with a capacity of about twelve hundred lights, which will give each prisoner a light in his cell. Surely the present is an age of improvement, and the Michigan City Prison, under its present management, is not likely to be left behind.

CHAPTER XVIII.

HAVING written of the Prison North, and of its management, I now propose to devote a few pages to the discussion of prison reform, a subject upon which much thought has been bestowed, and about which thousands of books have been written. Many noble men and women have grown gray in the cause, and have passed on to the "great beyond," but the problem is yet unsolved. Many changes have been made during the years of discussion and

labor for the better management of penal institutions, but much is still to be accomplished before the friends of prison reform can rest satisfied.

While the Northern Prison of Indiana can compare favorably with similar institutions throughout the country, there is still room for many important improvements. For years the present warden of the prison has asked the Legislature to make improvements on the system now in vogue, but when it is remembered that a session of the Legislature, by the constitution, is limited to sixty-one days, it is seen to be almost impossible for prison reform measures to be matured and passed, for the reason that each member has some local bill that his constituents are urging him to have passed, and upon which his popularity largely depends. Then there are the political measures that must be attended to, and which all too often obscure other measures of vital importance to the State. This being true, reform measures either remain in the pocket of some member, or die in the hands of a committee.

If the good people who are apparently so eager for prison reform will have the necessary bills prepared and appoint a committee among themselves to look after them and see that they are introduced early in the session and referred to the proper committee, and go before the committee and explain the practical working of their bills if passed, and never abandon their task until a favorable report is made, success may be secured. And this done, the reformers should solicit the support of every member of the Legislature, and see to it that these measures are advanced to a vote. If these suggestions are heeded I will guarantee that the required legislation will be secured.

Legislation is not easily obtained, and those who are interested in prison reform must not surmise that all that is necessary to accomplish what they so zealously advocate is to meet and recommend that certain measures should become laws. To accomplish their purpose they must go

to the halls of legislation and there remain until they secure what they wish for.

Under the present rules governing the Northern Prison, no distinction between prisoners is made, but first offenders are made to associate with hardened criminals. A young man sent to prison for his first offense, after a year or two of association with professional criminals becomes himself a professional, and when set at liberty is fully prepared to go deeper into vice and crime, and the only way to prevent this greater contamination of first offenders is to establish the graded system—the separation of first offenders from the “old timers.” This separation should be so thoroughly carried out that the novices in crime shall never come in contact with the baser class, either during their meals, in workshop or cell-houses. The separation should be complete.

The first step towards reformation is to train the mind, and as I have already said, more time should be devoted to training schools, and every prisoner desirous of taking advantage of the school should be given an opportunity to do so. Usually while the convict is employed at his daily task his mind concentrates upon his work, but after he goes to his cell in the evening, with nothing to occupy his mind, he broods over his confinement and forms plans for the future unfavorable for the welfare of society. If, instead of this, the training system was inaugurated and the convicts given three hours of educational training by forming them into classes under competent teachers, their minds would not be employed in conceiving criminal schemes to be carried out when their terms expire.

If these suggestions are adopted and properly carried out, those who are interested in prison reform will learn to their great satisfaction that the convict, when he leaves the prison, will have vastly more ambition to do right and lead a better life.

I believe there should be important changes in the crim-

inal laws of Indiana. We have tried the present laws for years, and find, as a result, little if any decrease in crime. Illinois and Ohio have enacted what is known as the habitual criminal law. The enactment of this law has driven a great many criminals into Indiana. Now let Indiana pass a similar bill. Other States will soon follow, and in a few years it will be found that the professional criminal will be safely secured behind prison bars, or forced to retire to other countries.

There are many men now confined in prison for life for murder, some of whom, I believe, are thoroughly reformed, and would live upright lives if they were given the opportunity; while there are many, serving short sentences, who should never again be turned loose on society.

I believe the Legislature should pass a parole law, and also create a board of pardons, consisting of three or four members, including the Governor. It should be the duty of such board to visit each prison every three months. A record should be kept of every prisoner, as to his conduct each day. These records should be placed before the board of pardons for its consideration; if in the judgment of the board any convict was deserving of a pardon, it should be granted. The board should also have power to re-commit any prisoner who violates his parole.

If the enactment of such laws as I have outlined could be secured, and their administration faithfully carried out, I feel satisfied that Indiana would soon reduce her number of criminals.

I would suggest another change in the criminal statutes of the State as follows: Mayors of cities and justices of the peace should have power to commit for six months or longer, according to the crime. Work-houses should be created in each county. It is not required that they should be large buildings, but they should be substantial, and should be erected in the jail yards, or in some other suitable place. The prisoners in jails and work-houses should

be compelled to crack stones. First offenders for petit larceny or misdemeanors should be committed to these work-houses. Their second offense should be a short term in the penitentiary, and for the third offense they should be committed under the habitual criminal law for an indefinite time. If these laws were created, in the course of ten years the criminal expenses for prosecuting and maintaining criminals would be reduced one-half, and the streets of every city and town would be covered with broken stone, for which the expense would be comparatively light. The suggestions I have made would not interfere with free labor, for the prisoners would crack the stones inside of an inclosure, and free labor would haul and place them on the streets.

Many may think that some of the suggestions I have made are excessively severe, if not cruel; but if they had had the opportunities I have had to investigate such subjects, and of studying the criminal classes, they would not be long in concluding that I am right. A first offender is given an opportunity to reform, and stop his evil associations and habits. If he does not take advantage of this clemency, and commits a second offense, he is again given an opportunity to mend his ways by a short sentence to the penitentiary. If then he commits a third offense, there is little hope remaining of his reformation, and he should be sent to prison under the habitual criminal law, there to remain until the board of pardons see fit to parole him. I am fully satisfied that my sojourn in the Northern Prison has given me an inside view of criminals that will better prepare me in the future to help unfortunate convicts who want to reform, as also to be better able to assist those who are anxious to protect society from the depredations of bad men.

Another great difficulty I find in comparing sentences of men convicted of various crimes, is the great injustice done them by judge or jury in divers number of cases. Many

men are sent to prison for long terms who really do not deserve it; while many receive a light sentence who much deserve a long one. This, perhaps, is not the fault of the judge or jury, but of officers of the law who are testifying against them in order to establish reputations for themselves. Many of them are convicted by witnesses who are prejudiced against the defendant, or they may have a personal motive in getting him out of the way.

A great many persons receive light sentences who have committed heinous crimes, because they have the influence of wealthy or political friends who exercise their influence with judge and jury. The prisoner, in many cases, is not known by judge or jury, and therefore they must rely wholly upon the testimony of others whose characters, perhaps, are worse than the prisoner himself. Now this prisoner, in committing an offense against the law, may have been surrounded by such a combination of circumstances that he had either to starve or to steal. Perhaps, being out of employment and unable to secure work, he was driven to despair when he committed the unlawful act.

Perhaps this was his first offense against the law, and if, after he had committed this act, he had had an opportunity to make good the loss, or atone for what he had done, he afterward might have lived an upright and honest life; but being without friends, or any one to lend him a helping hand, he is committed to jail, and the grand jury usually finds indictments against this class of people. Perhaps, on the evidence of some unreliable person, in a short while his case is set down for trial in the court. Being without friends or money, the court generally appoints some one to defend him; but, I am sorry to say, but little interest is taken in his case. The prosecuting attorney makes a strong plea, demanding of the jury that this man be convicted; he has been guilty of an awful crime. The jury brings in a verdict of guilty, fixing his sentence at five or six years in prison. The prosecuting officer is working for

fee and glory, for the more persons he can convict, the greater is his reputation established. The professional juryman has done his duty, and, perhaps, his chances are good for a job on some other jury, and the law has been faithfully carried out. But the poor fellow that has been convicted, surrounded by circumstances over which he has no control, hardly realizing that he has committed a crime, until he is railroaded into prison and has donned the convict garb, there, perhaps, to serve out his entire sentence, be it long or short.

Now, when these prisoners get together and commence comparing sentences, the fellow that has committed a trifling offense and received a long sentence tells that the law has not treated him right, and all because he was friendless and poor; while the other fellow, who has received a light sentence for some heinous crime, gloats over his narrow escape, knowing full well that he should have received a heavier sentence than has been given him. Now, if persons interested in prison reforms will but study these two cases they will surely see what a terrible injustice has been done. A man in prison for a long number of years for a trifling offense, brooding over the wrongs that have been committed against him, and from his long associating in prison with hardened criminals, becomes schooled in crime and vice. Now, if this man had been committed to a prison working under the graded system and under the control of a board of pardons he would have an opportunity to lay his case before this board and ask for a full investigation, and they would have but little trouble in finding out whether this man's representations were true or not. If he was found worthy of consideration he could be admitted on parole. The prison officials and this board have better opportunities of studying the characters of those prisoners under their control than would a judge or jury, who have neither time nor opportunity to investigate such matters. In fact, the only thing they can do is to

accept the evidence that is presented to them and pass upon it as in their judgment seems best. I fully believe that in time many of these wrongs will be righted by our legislature by creating just and wise legislation upon this subject. Then the State, society and the convict will be better off, for he will have a chance of taking advantage of this opportunity to try and reform himself. In speaking of injustice of sentences that have often been passed upon men is something that came directly under my own observation. I talked to men in regard to their cases, and often overheard them comparing the sentences they had received; and commenting on them. This leads me to make the suggestions that I have offered, feeling that I am fully competent and able to do so, and my only desire is that it may prove a benefit to those for whom I speak.

During my political career I have come in contact with a great variety of people, and this has afforded me numerous opportunities to study men and character. My reputation as a talker was never such as to give me prominence, but as a listener and observer I flatter myself that I have earned a reputation that need not embarrass me. I was never addicted to drinking to an extent calculated to alarm either myself or my friends; but from the time I became closely identified with political matters I have never permitted a drop of intoxicating liquor to pass my lips. This may seem strange to many of my readers who know of my connection with the liquor business. But as I have said in the introductory pages of this book, I generally had a policy to guide me, and always hewed to the line.

My reasons for not drinking intoxicating liquors may be summed up as follows: In the various official positions I have held, I necessarily came in contact with men of various avocations and callings, and I doubt if it is an over-estimate to say there have been occasions when, during a day, I have been invited to drink a hundred times. To have complied with such requests would have soon and inevitably reduced

me to a physical wreck. Had I accepted of one invitation, I could not have declined others without giving offense, and I therefore refused all. I belong to that class of men who concede to others the right to act as their judgment dictates, as long as they keep within the bounds of decency, and do not interfere with the rights of others. A person may be a glutton, and by over-eating make himself the victim of ills scarcely less repulsive than those which result from drinking; and hence my motto is: Be temperate in all things, in order to be healthy and lead a successful life.

There are many men who ruin themselves politically by making promises which they find themselves unable to fulfill; while others make promises which they never intend to comply with; in either case such men ruin themselves and injure their party. A man should never make a promise to one of his constituents, no matter how humble he may be, unless he intends to faithfully carry it out, and my experience is there are few men who can hold the party workers in line who violate their pledges.

The political field is no place for a timid man, and the person who is thin-skinned had better never enter the arena of politics. Of course, there are accidental politicians, as well as accidental criminals, men who ride into office and power on some issues that may have been raised in a particular campaign, and when such things occur these accidental politicians imagine that they are modern leaders, called to pilot the people away from bondage and through the wilderness into the promised land. They start out as great political reformers, and usually die an early political death, and are quickly laid away in their political graves, while the man who goes into politics with an honest purpose, to do that which he thinks is best for the interests of the people, will always make a clean record for himself and for the party he represents, and as a result such a man will retain the confidence and esteem of the people.

CHAPTER XIX.

PRISON REGULATIONS.

FOR the benefit of my readers who may never have had the opportunity of investigating the inside working of a prison, it will no doubt be interesting for them to learn the habits of those isolated human beings who are shut out from all intercourse with the outside world, with the exception of newspapers, or lectures, and an occasional visit from a friend or relative. After the prisoner passes through the strong iron door and is registered on the prison record, there is but little hope of his ever getting out, except by death, pardon, or the expiration of his sentence. The massive iron doors; the high wall that surrounds the prison; the vigilant guards that are in the tower, and those on duty as guards in the workshops or cell-houses, are sure barriers against any hope of escape; and the prisoner must then submit to his fate, whether he be innocent or guilty, wealthy or poor, ignorant or educated. They are at this time all on one level—prisoners of the State; bound to obey all the rules and regulations of the institution or suffer the penalties for violation of them, according to the breach of discipline which may have been committed. The professionals, as a rule, make the best prisoners, and the easiest to manage. Life men may be classed among such prisoners, and the officials have but very little trouble from these classes of convicts. After the prisoner has been receipted for by the official in charge, he is at once taken to the bath-house, where he exchanges his citizen's suit for a convict's garb; from there to the barber's chair, where the tonsorial artist gives him a clean shave and a close cut of hair.

He is then ready to be presented to the deputy warden,

to receive his final instructions as to his duties and the rules he is expected to obey. A complete description is now taken of the prisoner—his name, age, height, weight and trade or occupation, if any. He is then assigned to one of the contracts, if a State prisoner. If a United States prisoner he is given other employment that does not come under the contract system. We next find him registered on the cell-house board as No. —, Cell No. —. The prisoners are aroused in the morning about 6 A. M. by a steam whistle blown from the engine-room. After preparing a hasty toilet another signal is given which calls them into line on the range on which their cells are located. They are then marched out—each line in charge of a guard—to the large dining hall. When every line is placed in position opposite each other along the side of the long tables, another signal is given and they become seated and eat their morning meal. After a given length of time has elapsed for them to complete their meal, another signal is given and they arise from the table and re-form into single file, with the right hand placed on the right shoulder of the one in advance of them, when they are marched to their respective work-shops. The same programme is carried out at the noon hour—also in the evening. After supper they are marched to the cell-house and are counted by the guard, who makes a report to the deputy warden. If the number of prisoners corresponds with the number on the register for that day, another signal is given, this time by the ringing of a bell, which announces the fact to the wall-guard that the count is correct. The guards then leave their posts and proceed to the armory and deposit their fire-arms until the next morning, when they again go on duty. But if the count of the prisoners does not correspond with the register, no guard is allowed to leave his post until the missing one is either found or accounted for. The prisoners are then locked in their respective cells for the night by the turning of a lever, which throws an iron

bar which secures each and every cell on that range. Each cell door is also locked with a key. The prisoners are then left to their own thoughts. Some occupy their time in reading, others by making trinkets and fancy articles, while many pass the time in brooding over their misfortune. At 9 p. m. another signal is sounded by the ringing of a bell, when all lights are to be put out in the cells and all prisoners must retire to bed. During the lonely hours of the night the guards constantly patrol the ranges of the cell-house with their feet incased in moccasins, while other guards are patrolling the various work-shops, making half-hourly rounds. They are required to touch an electric button which is placed in each work-shop and other locations in and around the prison. This button is connected with an indicator in the office, which registers the number of times they make their respective rounds. This is continued until the day men relieve the night men in the morning. Every prisoner is required to be shaved once a week, and this is effected by two convict barbers, who commence on Thursday of each week to shave all the prisoners and continue their task until it is accomplished, which is generally done by Saturday afternoon. Saturday is the day assigned for general bathing, when each line of prisoners is taken to the bath-house under the escort of their guards, and this is continued until all the prisoners are bathed, but never more than one line occupying the baths at one time. The wash-house, which adjoins the bath-house, is where the prisoners' underclothes and outside shirts are washed and kept. Each article is numbered to correspond with the convict owner's number, and it would greatly surprise a visitor to realize the complete system governing this department, where every article is returned to its owner, with rarely a mistake.

A great many people imagine that the time to the inmates passes slowly in a prison. This is true when the prisoner worries, or allows himself to be continually think-

ing of the outside world. If a prisoner, when he enters a penal institution, will only make up his mind that he must "make the most of a bad bargain," and devote his spare time to some interesting study, he will find the time to pass a great deal quicker than if he give himself up to brooding over his misfortune. The longest day for the convict is the Sabbath. Locked up from Saturday night until Monday morning, with the only exception of the time he is taken to his meals or returning, and the hour he spends in the chapel listening to divine service, makes the time hang heavy on his hands, and he longs for Monday morning to come so that he can return to his work. If he only obeys all the orders given him and does not infringe any of the rules, he will find, if he pursues this course, that the time will pass much more pleasantly than if he attempts to be sulky and troublesome.

The next interesting subject that I will give the reader of this work will be the manner of employment the convicts are given, consisting of the different kinds of work that they are put to under the "convict contract system." The State convicts are assigned to the different contractors as they are bid for—that is, a contractor bids for the use of a certain number of men for a specified time, agreeing to pay the State a certain price for the service rendered, as follows:

Cooper Department.....	150 men, at 58 cents per day.
Chair Department.....	200 men, at 59 cents per day.
Boot and Shoe Department.....	130 men, at 56 cents per day.
Woolen Mills Department.....	200 men, at 46 cents per day.

The Northern Prison report shows, as above statement, that the six hundred and eighty men employed on the contract system are averaging about fifty-four cents per day each man, which is paid into the State fund.

Many of the prisoners have been serving long sentences and have become expert workmen. A number of them go out at the expiration of their sentences, but in a short time commit another depredation, which returns them to prison, and they are again assigned to their former work. Some

go out and never return, but their places are filled by fresh arrivals, and the contract continues year in and year out without interruption. The balance of the prisoners, who are mostly United States men, are employed in various capacities around the institution, some employed in cooking, others in the wash-room, dining-room and on the farm, for the reason that they can not be put upon contract employment. The product of the farm consists of vegetables principally, and is furnished and consumed by the inmates of the prison. Beeves are bought for the institution on the hoof, and slaughtered there for use in sufficient quantity to serve fresh meat three times per week. The pickled pork served is of a good quality. The bread is baked in the prison, of a good grade of flour. In fact, the bread furnished there is of a much better quality than some I have seen sold on the outside. On all holidays the prisoners are served with something extra for their dinner, and in a good liberal quantity. There is a store-house connected with the prison, in charge of the steward, where such articles as butter, sugar, syrup, and fruits are sold to the prisoners at cost price.

Many of those prisoners who have money in the office, take advantage of this system to supply themselves with those extras which are not issued as prison fare. Any friends of the prisoners who desire to send them eatables, are under no restrictions in doing so, and many a basket or box of dainties are thus received during the year.

A great many convicts keep themselves supplied with money by doing over-work. This is done after their task has been accomplished. I know of some prisoners who have been able to send money home to their families by this means, which goes to show what a man can accomplish by industry, even in a prison.

Taking into consideration the small price paid by the contractor for prison labor, leads me to believe that the law governing the contract system should be so changed that

the contractor should be required to pay a certain stated sum over and above the price paid to the State, to the convict, thus enabling him during his confinement to accumulate a little money, which would be of great assistance and help to him when he again becomes a free man, and instead of being thrown upon a cold and uncharitable world, with only a paltry fifteen dollars allowed him by the State, at the gate, to fit himself out with any necessary clothing for the purchase of a railroad ticket to take him away. Sometimes the distance may be short to his home, if he has one, and again much farther than the balance of the money can take him. And if the convict really felt that he wanted to lead an honest life, he has not got sufficient funds to enable him to maintain himself until he could get honest employment.

The prevailing impression with the outside world is that compulsory labor is not worth much, and that there is a great waste of material when handled by convict labor, and this impression is generally given out by prison contractors or their friends. This, I desire to say, is all wrong, for this impression is given for the purpose of shielding from the public the enormous profits derived by the contractors from convict labor. As much work is performed by a convict in the same number of hours as is accomplished by free labor.

There is also less waste of material, for the reason that these men are working under strict discipline. No conversation is allowed unless by permission of the guard or foreman. Men are not running backward and forward through the shops unless they have business in doing so, and then only by permission. The prisoner knows that if he shirks or neglects his work he will be punished. If he either wastes or maliciously destroys material, he will suffer for it. This must be enforced to maintain the necessary discipline. A great prejudice has grown up against convict labor; but if those opposed to convict labor will but bear

in mind that these men, for humanity's sake, must and should be employed to keep them from becoming insane, and perhaps forever after being a burden on the State, and that the product of convict labor in comparison is a very small amount manufactured and sold, being only about two per cent. of the whole amount manufactured over the United States of the same product. These men have been convicted of a crime, and the law says they must be punished. Many of these men have never worked except in "stripes," and while out of prison they live off the ill-gotten gains from their victims, and while in prison the State then becomes their victim by supporting them in idleness, and honest labor is compelled to work and maintain such institutions. Is it not better that these men should be taught trades, that they may be enabled to earn an honest living after the expiration of their sentence, if they are at all inclined to be honorable men?

Another important subject upon which I desire to speak is the defect in the law regarding prisoners who become insane. There is no legal way in which they can be transferred to an insane asylum. There are several men confined in the Northern Prison who should be sent to some insane asylum where they would receive proper treatment, one life-man, especially, who has been confined in the "crank house" as a raving maniac for fully three years. Others not quite so bad are running around the yard, and are known as "cranks," who are incapable of judging right from wrong. During my confinement I saw several prisoners who were sentenced from the northern part of the State, quite incapable of being held responsible for their acts. One, in particular, died a few weeks after he was brought there, a confirmed, chattering idiot.

The judge committed a great wrong when he passed sentence on such a subject, and would have learned a wholesome lesson if he had been sent there himself. I can refer

my readers to a case where another of those unfortunate creatures was sent to the prison and put to work in the chair department, and while at work one day, without the least provocation, picked up a chair round and almost split open the head of the foreman with it, and thereby laid him up for several weeks. Officials of the prison can not and should not be held responsible for the situation of that class of beings. Warden James Murdock, of the Northern Prison, has on several occasions asked for legislation on this subject, but has received no aid. It is an outrage that lunatics and driveling idiots are sent to prison, while thousands of dollars are being spent for the maintenance of asylums throughout the State for the treatment of such people.

Another matter of importance is the appointment by the Legislature of State agents who should be located in cities in which State prisons are situated. A suitable lodging house could be obtained, and it should be the duty of the agents to take charge of prisoners at the gate upon their discharge and provide them with lodging until he sees them safely on their way home—if they are fortunate enough to have one to go to—or to try if possible to have places secured in advance for the most deserving. I had an opportunity while in the Northern Prison to see a number of prisoners discharged at the expiration of their sentences, but they did not go far from the prison before they were met by former pals or other designing persons, whose only object was to secure the few dollars which they had received at the gate. Many of the discharged convicts fall into the hands of such men before the train arrives, and they are left without money enough to purchase a ticket. Persons who are interested in prison reform can easily see the necessity of legislation on matters of this nature.

CHAPTER XX.

TWENTY years ago, when I began taking an interest in politics, the thrilling ordeal I have passed, and of which I have written, was hidden from my youthful vision. The political field was inviting, and I entered it with that buoyancy and confidence peculiar to sanguine temperaments. My political life has been a stormy one. Every honor conferred upon me has been won by aggressive warfare. I have never won a friend and lost him except by death. I never made a promise to a man that I did not fulfill—and this is true—including the humblest citizen; and even while confined in the Northern Prison many letters came to me, soliciting my assistance to secure for a friend some humble position, and to these requests I never returned an indifferent answer, though satisfied that those who desired my influence did not realize my position. Throughout my career I have sought to be charitable to those who in distress have sought my assistance. In this honest endeavor to be of assistance to the unfortunate, I may have been many times deceived, but I would rather be the victim of imposition than to suffer from the reflection that I had turned one really deserving person away empty-handed. Only a limited number of persons can ever know to what extent my life has been devoted to the mitigation of the misfortunes of the friendless, surrounded as I have been by people anxious to secure my kind offices; and here I say, in no boastful spirit, I never turned a deaf ear to those whom I believed deserving of help, but have done what I could to promote their welfare and happiness. In this way, my life, in all my manhood years, has been largely devoted to helping others rather than to the advancement of my own pecuniary interests. In these statements regard-

ing my past life, there are hundreds and thousands of the people of Indianapolis who, were they solicited, would most triumphantly verify.

After President Harrison had kindly relieved me of my fine and the costs attending my trial, many of my friends, animated by friendship that knew no change when the storms of adversity beat upon me, desired to give me a public reception upon my return to Indianapolis. My heart will cease its pulsations before I forget such proffered tokens of confidence and esteem, but I discouraged the movement, and told my friends that I desired that my future should shape itself.

My term of confinement expired on the first day of June, 1889, and I returned to Indianapolis on Monday, June 3d. That evening a regular session of the Common Council of Indianapolis was held, and I appeared promptly at 8 o'clock and answered to the roll-call. I was warmly received by colleagues and friends, and as the city election was near at hand I was urged to make the race for re-election as councilman for my ward. To all inquiring friends I said if they desired my nomination it was their duty to attend the primary, and then if I was the choice of the convention I would make the race. On the evening fixed for the primary convention the largest gathering of the people ever seen in Mozart Hall bore testimony of their unflagging confidence, and for the fifth time I was nominated for the council of Indianapolis. The election was held on the 8th day of October, 1889, and I was triumphantly elected by an increased majority. I was elected by neighbors, men who had known me for many years, who had known my public and private life, men of all parties and of the various walks of life. These men knew that I had my liberty sworn away by a confessed felon and a purchasable jury, and they determined, so far as it was in their power, to revenge an infamous verdict, and to teach the steel-plated hypocrites who had been instrumental in

securing it that there was a way in defiance of partisan malice to do justice to a fellow man and a fellow citizen. and these noble-hearted men, by their votes, made me for the fifth time one of the law makers of the capital city of Indiana—an honorable if not a lucrative position. By their faith they wiped every stain from my name and healed every wound made by the serpent fangs of the committee of one hundred and their co-workers.

As I write these closing lines of my book, realizing the full measure of the friendship and confidence of my fellow citizens, when the storms of partisan malice beat fiercely upon me, who, when I was in prison, gave me their sympathy, and when released, gave me their votes, my sense of gratitude swells beyond the power of expression. Restored to liberty, to home and family, with brightening prospects for the future, the past neither bows nor embarrasses me. In the future as in the past, as I have opportunity, I shall help the unfortunate and seek to advance the interests of Indianapolis. Malignity, vituperation, falsehood, slander and perjury have done their work, and those who sought my destruction by such means I leave to the cankering curse of their consciences; while I, vindicated by the votes of honest men and maintained in a position of high trust and honor, shall seek in the line of duty to prove myself worthy of the friendship and esteem that in a time of need was so lavishly bestowed.

THE END.



IN STORAGE - REQUEST AT DESK

364

C

Coy, Simeon ✓

The great conspiracy: a complete history of the famous tally-sheet cases.

5/97

Webster Memorial Library
Decatur, Michigan

RULES

The borrower of this book is responsible for the care of it while in his possession and must return it on or before the date due.

All injuries to books beyond reasonable wear and tear must be made good to the satisfaction of the Librarian.

VAN BUREN DISTRICT LIBRARY

